

Kavita S. J.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION APPEAL NO. 35 OF 2023

Rajendra Jain ... **Appellant**

Versus

Chetan Paranjpe and Anr. ... **Respondents**

**WITH
INTERIM APPLICATION NO. 14982 OF 2023
IN
ARBITRATION APPEAL NO. 35 OF 2023**

Mr. Amit Patil i/b Parinam Law Associates, Advocate for Appellant.

Mr. Ninad Deshpande, Advocate for Respondent Nos. 1 & 2.

CORAM : R.I. CHAGLA, J.

DATED : 21ST SEPTEMBER, 2023.

ORDER :

KAVITA
SUSHIL
JADHAV

Digitally signed
by KAVITA
SUSHIL JADHAV
Date: 2023.09.26
18:47:01 +0530

1. By this Interim Application, the Applicant/Appellant has sought stay on the effect, operation and implementation of the order dated 7th August, 2023 passed by the District Judge-2, Pune, under

Section 9 of the Arbitration and Conciliation Act, 1996, in Civil Miscellaneous Application No.131 of 2022. In the alternative, relief is sought pending the hearing and final disposal of the Appeal, to permit the Applicant to conduct credit rating business through his proprietorship “Value Ratings Advisors” by using their Trademark and Logo / Device Mark registered in the name of the Applicant and the domain “www.valueratings.in” owned by the Applicant.

2. By the impugned order dated 7th August, 2023, the Respondent has been temporarily restrained from conducting credit rating business through any proprietorship, partnership of company other than through the LLP. The Respondent is further temporarily restrained from using LLP, Name, Logo, domain name, trademark and goodwill for conducting his personal business and further restrained from using information / data pertaining to LLP under the domain name, without consent of the Applicant, till final settlement of disputes between them before the Arbitral Tribunal. The learned District Judge-2, Pune has arrived at a finding that the LLP is in existence and in view of which the Appellant herein has no right to start his personal business in similar name as LLP with use of resources, goodwill, logo and

trademark of LLP. The learned Judge has held that if the LLP was to be dissolved, then the same has to be dissolved as per the provisions of LLP Act, 2008 and the Insolvency and Bankruptcy Code, 2016.

3. The LLP Agreement provides for *inter alia* resignation of the partner of LLP in Clause 14(ii) and partner is to give atleast 90 days prior notice before resignation. Further, under Clause 17 of the LLP Agreement, the LLP is to have perpetual succession. So, death, retirement or insolvency of any partner will not dissolve the LLP and that the LLP can only be dissolved by consent of all partners in writing.

4. The Appellant does not desire to continue as partner of LLP. The Appellant already has secured registration of trade mark VALUE RATINGS (DEVICE OF V) on 5th October, 2021. However, by the impugned order, the Appellant is restrained from conducting Credit Rating Business through proprietorship, partnership or Company other than through the LLP. In view thereof, the impugned order insofar as it restrains the Appellant from using his registered trademark as Proprietor, is clearly erroneous.

5. It is noted that by an order of this Court an Arbitrator has

been appointed and the proceedings are before the Arbitrator. In that view of the matter, it would be necessary for the Appellant to refer any dispute arising under the LLP before the learned Arbitrator appointed. However, considering that the impugned order prevents the Appellant from use of trademark VALUE RATINGS (DEVICE OF V) in respect of which he is the registered Proprietor, the impugned order is set aside to that extent.

6. The Arbitration Appeal together with Interim Application is disposed of by granting the liberty to the Appellant to prefer claim before the learned Arbitrator in respect of the disputes arising under the LLP Agreement dated 24th June, 2015.

7. There shall be no orders as to costs.

[R.I. CHAGLA, J.]