

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

MCA No.390/2022

Padmaja Associates V M/s Avelet Remedies and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr. P.A. Abhyankar, Adv. for applicant.

Mr. Rohit Joshi, Adv. for resp. no.3.

Mr. H.V. Thakur, Adv. for res. no.2.

CORAM : AVINASH G GHAROTE, J.

DATE : 20-01-2023

The application seeks an appointment of arbitrator on the ground that the earlier arbitrator appointed by an order dated 21-11-14 (pg 13) has terminated the proceedings by his order dated 7-3-22 (pg 42), on the ground that none of the parties have appeared before him for conducting the proceedings.

2. Mr. Abhyankar, learned Counsel for the applicant relying upon **SREI Infrastructure Finance Limited vs Tuff Drilling Private Limited, (2018) 11 SCC 470**, has submitted that the termination of the proceedings u/s 25(a) of the Arbitration and Conciliation Act, 1996, (for short, 'A and C Act'), would not amount to termination of the mandate of the arbitrator and it would be permissible for the applicant to approach the learned Arbitrator for restoration of the

proceedings.

3. Mr Thakur, learned Counsel for the non applicant no.2 submits that the communication dated 7-3-22 results in termination of the mandate of the arbitrator under Sec. 32 of the A and C Act and therefore the same rendered *functus officio*. **SREI Infrastructure Finance Limited** (supra) indicates that an application for recall of the order of termination of proceedings would be entertainable by the arbitrator, considering which, it would be appropriate for the applicant to file a suitable application in that regard which shall be considered by the arbitrator.

4. The objection by the non applicants regarding the termination of mandate u/s 32 of the A and C Act, is kept open and shall be considered by the arbitrator while entertaining and deciding any application for recall of the order.

5. Application stands disposed of in above terms. No costs.

JUDGE