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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMM ARBITRATION PETITION NO.342 OF 2020

Tema India Ltd.

...Petitioner

Versus

Seok-am-Tech Co. Ltd. (also known as Satco)

...Respondent

Mr. Mustafa Doctor, Senior Counsel, Karl Shroff, K.R. Daviervalva and Yazdi P Jijina i/b. Mulla and Mulla & Craigie Blunt and Caroe for the Petitioner.

Mr. Firoz Bharucha, Ziyad Madon, Mahek Kamdar, Karshil Shah and Hersh Choksi i/b. Kanga and Co. for the Respondent.

CORAM : R.I. CHAGLA J.
DATE : 10TH APRIL, 2024.

ORDER :

1. By this Arbitration Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short “the Arbitration Act”), impugned Award dated 18th October, 2019 has been challenged. By the impugned Award, the Petitioner has been directed to pay an amount of US\$ 632,100 plus interest thereon @ 6% per annum from 1st January, 2015 till payment and / or realization.

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2. The limited issue which arises in the Arbitration Petition and which was noticed by this Court vide Order dated 6th January, 2023 is the issue of limitation and accordingly this Court had directed that the Petition shall be heard at the stage of admission.

3. It is necessary to reproduce the certain material dates of events which are as under:-

(i) The Petitioner (buyer) on 15th September, 2008 placed a purchase order for forgings for US\$ 1,360,000 with the Respondent (Seller);

(ii) The Petitioner (buyer) on 30th September, 2008 placed a further purchase order for forgings for US\$ 735,280 with the Respondent (Seller);

(iii) On 14th January, 2009, the Petitioner paid US\$ 1,150,460 for the above forgings leaving a balance of US\$ 719,710;

(iv) The Petitioner further made payment of the US\$19,801.55 on 5th February, 2010;

(v) The Petitioner further made part payment of US\$

18,232.17 on 12th February, 2010;

(vi) After 12th February, 2019 and prior to 12th February, 2013, no other payments or acknowledgments of any kind were made / executed.

(vii) A meeting was held on 4th February, 2013 between the Petitioner and Respondent where there was a discussion regarding the issue of outstanding payment of US\$ 719,710. It is necessary to note that there are no minutes of the meeting in writing.

(viii) On 12th February, 2013, according to the Petitioner limitation expired even if last payment of February, 2010 is considered;

(ix) The Petitioner addressed an email to the Respondent on 18th February, 2013 regarding the discussion which took place at the meeting on 4th February, 2013.

(x) Thereafter, in June, 2013 payment of US\$77,610 was made by the Petitioner to the Respondent.

(xi) On 24th December, 2014, the Petitioner by email asked the Respondent to provide the Petitioner's Auditor a balance

confirmation.

(xii) The Respondent by the email dated 30th December, 2014 forwarded the balance outstanding according to it.

(xiii) On 9th and 20th January, 2015, it is the contention of the Respondent that the Petitioner made part payment of US\$ 10,000. It is necessary to note that the Petitioner clarified in evidence of its witness Mr Anil Bhave (RW-1) that no payment / adjustment was made by the Petitioner.

(xiv) A winding up Petition was initiated by the Respondent against the Petitioner in August, 2014.

(xv) The Petitioner having contested said proceedings had consented with the Respondent on 26th September, 2017 to have the dispute referred to arbitration.

(xvi) The learned Arbitral Tribunal after adjudicating the dispute, rendered the impugned Award on 18th October, 2019. The entire claim of the Respondent was decreed with interest thereon on 6% per annum from 1st January, 2015.

(xvii) In the application for stay on execution of the impugned

Award, an Order dated 6th January, 2023 came to be passed granting a conditional stay on the impugned Award in favour of the Petitioner. The Petitioner informed this Court that it was restricting its challenge to the impugned Award on the issue of limitation. The findings on the facts were not the subject matter of the challenge.

4. Mr. Mustafa Doctor, the learned Senior Counsel for the Petitioner has referred to Paragraph 51 of the impugned Award wherein the learned Arbitrator has found that the email of 18th February, 2013 relates back to 4th February, 2013 which is prior to 12th February, 2013. The finding is that it is further found that the email of 18th February, 2013 was sent within two weeks of the meeting of 4th February, 2013. It is not a case where there is a substantial or enormous delay. Further, the finding is that the email of 18th February, 2013 is a clear acknowledgment of liability recording events of 4th February, 2013. He has submitted that each of these findings is patently illegal on the face of the Award and perverse.

5. Mr. Mustafa Doctor has submitted that the finding that

the email of 18th February, 2013 amounts to an acknowledgment and extends limitation is patently illegal since the last part payment was on 12th February, 2010 and extended limitation only up till 12th February, 2013. He has referred to the Section 18 of the Limitation Act, 1963 which provides that an acknowledgment of liability must be in writing; and it must be made by such writing before the expiry of limitation. He has submitted that the law is unequivocally settled in this regard by the Supreme Court in *Sampuran Singh & Ors. Vs. Niranjan Kaur (Smt.) and Ors.*¹ and in *State of Kerala Vs. T.M. Chako*²

6. Mr. Mustafa Doctor has submitted that a mere admission of past liability is also not sufficient. There must be an acknowledgment of subsisting liability as held by the Supreme Court in *Valliamma Champaka Pillai Vs. Sivathanu Pillai & Ors.*³. He has submitted that the impugned Award at paragraph 16 notes the Petitioner's submission regarding the email of 18th February, 2013 not extending limitation. However, without any consideration of the law cited by the Petitioner in the written submissions filed before the

1 (1999) 2 SCC 679 at paragraph 9.

2 (2000) 9 SCC 722 at paragraph 8.

3 AIR 1979 1937 Paragraph 19.

learned Arbitrator, the impugned Award concludes that the email 'relates back' and amounts to an acknowledgment. He has submitted that there can be no concept of 'relating back' to convert a payment / acknowledgment made after the expiry of limitation into one made prior to the expiry of limitation.

7. Mr. Mustafa Doctor has submitted that for the purpose of limitation, the impugned Award notes that the case of the Petitioner for extension of limitation was only based on three events namely:-

(i) an alleged part payment on 10th June, 2013;

(ii) correspondence in December 2014;

(iii) an adjustment payment of US\$ 10,000 on 9th and 20th January, 2015 mentioned in Company Petition 2015.

8. Mr. Mustafa Doctor has submitted that the Respondent has not claimed the email of 18th February, 2013 as an acknowledgment. Notwithstanding that, the learned Arbitrator has on his own relied on this email as an acknowledgment thereto, patently contrary to the law as laid down by the Supreme Court in the aforementioned decisions as well as Section 18 of the Limitation Act.

9. Mr. Doctor has also submitted that presuming that the Respondents claim that email of 18th February, 2013 is an acknowledgment, there would be a hiatus, i.e. between 12th February, 2013 when the limitation expired and the acknowledgment on 18th February, 2013. He has relied upon the last part of Section 18 (1) of the Limitation Act which provides that “a fresh period of limitation shall be computed from the time when the acknowledgment was so signed”. This could have only been from 18th February, 2013 presuming there was an acknowledgment on that date. He has accordingly submitted that the finding in the impugned Award that the email of 18th February, 2013 is an acknowledgment which gives rise to a fresh period of limitation is patently illegal.

10. Mr. Mustafa Doctor has submitted that the Respondent has sought to rely on the Petitioner’s email dated 24th December, 2014 asking the Respondent to provide to the Petitioner’s Auditors balance confirmation and Respondents response thereto on 30th December, 2014 forwarding its claim of a balance outstanding as an acknowledgment of liability for the purposes of extension of limitation. The learned Arbitrator has held that by the alleged

acknowledgment made in December, 2014, time was extended upto December, 2017 and that consequently, the Petitioners' claim filed in October, 2017, was in time. He has submitted that the findings of the learned Arbitrator are patently illegal because the email of 30th December, 2014 and its attachment are not writings signed by the Petitioner, confirming any amount due to the Respondent. He has submitted that if at all the same is to be considered as an acknowledgment, the same is beyond the period of limitation which expired on 12th February, 2013. and may not have the effect of restarting the jural relationship. He has submitted that there is no finding of learned Arbitrator that there was a fresh promise to pay but the learned Arbitrator considered this to be an acknowledgment. He has submitted that merely asking for a statement without an expression of willingness to have it settled or a promise to pay, does not amount to acknowledgment. He has placed reliance upon ***Sha Manmall Misrimal Vs. K. Radhakrishnan***⁴. He has accordingly submitted that there is no jural relationship established or continued.

11. Mr. Mustafa Doctor has submitted that Respondent had contended that there was an alleged payment of US\$ 10,000 made in

4 AIR 1972 Madras 109 paragraph 6.

January, 2015 and in view of the same claimed this part payment again extended time by another three years. The learned Arbitrator in the impugned Award in paragraph 56 expressly did not consider and / or render any finding on the alleged part payment of US\$ 10,000, as well as the time taken by the Respondent in pursuance of the Company Petition for winding up as excluding time under Section 14.

12. Mr. Mustafa Doctor has submitted that during the oral arguments of the Respondent argument was made that the email of 18th February, 2013 amounts to a 'promise to pay' under Section 19 of the Limitation Act and therefore limitation should be counted from that date. This argument cannot now be considered, being a completely new case. He has referred to the statement of claim wherein there is no such pleading. Further, the learned Arbitrator has not come to any such finding in the impugned Award. He has submitted that it is settled law that if a point is not urged before an arbitrator it cannot be raised thereafter in a Section 34 Petition. He has placed reliance upon *Union of India Vs. Susaka Private Ltd. and Ors.*⁵.

5 (2018) 2 SCC 182 paragraph 19 to 27.

13. Mr. Mustafa Doctor has further submitted that the law of limitation is based on public policy and the impugned Award in holding contrary to the law of limitation would be in violation of public policy. He has submitted that the rules of limitation may lead to hardship but equitable considerations are irrelevant. He has placed reliance upon *The Sunni Central Board of Waqf, UP and Ors.*⁶. He has further placed reliance upon the decision of *N. Balakrishnan Vs. M. Krishnamurthy*⁷ and *Pralad Raut Vs. All India Institute of Medical Sciences*⁸ in support of his contention that the law of limitation is based on public policy.

14. Mr. Mustafa Doctor has accordingly submitted that the impugned Award be set aside under Section 34 of the Arbitration Act as being patently illegal and also as contrary to the public policy of India.

15. Mr. Firoz Bharucha, the learned Counsel for the Respondent has placed reliance upon the meeting held on 4th February, 2013 in support of his contention that at the said meeting

6 AIR 1959 SC 198 – paragraph 19.

7 (1998) 7 SCC 123 – paragraph 11.

8 (2019) SCC OnLine Sc 1110 – paragraph 42.

the representatives of the Petitioner and the Respondent discussed the outstanding dues owed by the Petitioner to the Respondent. He has submitted that on 18th February, 2013, the representatives of the Petitioner emailed the Respondent, acknowledging the fact that the meeting had been held at the Petitioner's office on 4th February, 2013 for discussion regarding the payment towards the unpaid amount of US\$ 719,710 to the Respondent. Not only did the Petitioner confirm the liability of US\$ 719,710 towards the Respondent, but it also set out a proposal on how the Petitioner intended to pay the balance amount of US\$ 719,710 to the Respondent. He has submitted that the Petitioner's representatives requested the Respondent's representatives to confirm their acceptance of the above proposal and requested the Respondent to withdraw the legal notice issued to the Petitioner for recovery of the outstanding dues.

16. Mr. Firoz Bharucha has submitted that the Petitioner not only set out the manner in which the payment would be made to the Respondent, but also made a payment of US\$ 77,610 to the Respondent in the month of June, 2013. Thereafter, on 23rd December, 2014, the Petitioner called upon the Respondent to provide their auditors a statement of the balance due to the

Respondent from the Petitioner. Further, on 30th December, 2014, the Chartered Accountant of the Respondent wrote to the Chartered Accountant of the Petitioner and informed them that the amount of US\$ 632,100 was receivable by the Respondent from the Petitioner.

17. Mr. Firoz Bharucha submitted that inspite of providing a written assurance to the Respondent in express terms that an amount of US\$ 719,710 remains to be paid to them, the Petitioner made no payment whatsoever, save and except what is stated above and an adjustment to the extent of US\$ 10,000 which was done prior to December, 2014. Accordingly, the Respondent had issued notice under Section 433 and 434 of the Companies Act, 1956 as it then was, upon the Petitioner on 24th April, 2015. The Petitioner responded to the said Notice vide its Advocate's notice dated 9th June, 2015 wherein the Petitioner denied payment of the balance amounts due under the purchase orders.

18. Mr. Firoz Bharucha has submitted that thereafter the Respondent initiated winding up proceedings against the Petitioner in August, 2014 and by consent of parties the disputes were referred to arbitration. He has submitted that it is of utmost importance that

from May/June, 2009 until June 2015, the Petitioner never once disputed its obligation to pay the Respondent its outstanding dues. Not only that, the Petitioner expressly agreed to make payment of the said amount and in fact, did so in June, 2013. Considering the fact that the Petitioner never once disputed their liability but acknowledged it, there was no occasion for the Respondent to initiate legal proceedings. On the Petitioner denying its liability in June, 2015, the Respondent initiated legal proceedings in August, 2015 itself.

19. Mr. Firoz Bharucha has placed reliance upon the decision of the Supreme Court in *Khatri Hotels Private Ltd. and Anr. Vs. Union of India and Anr.*⁹ and *Shakti Bhog Food Industries Ltd. Vs. Central Bank of India and Anr.*¹⁰ as also *MST Rukhmabai Vs. Lala Laxminarayan and Ors.*¹¹ in support of his contention that the residuary Article which was former Article 120 of the Limitation Act, 1908 and now Article 113 of the Limitation Act, 1963, provided that any Suit for which no period of limitation is provided elsewhere in schedule, the period of limitation is three years when the right to sue

9 (2011) 9 Supreme Court Cases 126- paragraph 30.

10 (2020) 17 Supreme Court Cases 260 paragraphs 21 and 26.

11 1959 SCC OnLine SC 9 at paragraph 33 to 35.

accrues. In the decision of the Supreme Court in *Khatri Hotel (Supra)*, the Supreme Court had also considered Article 58 of the Limitation Act which provides for a Suit to obtain any other declaration and for which the period of limitation is three years, begins to run when the right to sue first accrues. The Supreme Court has held that the legislature in enacting Article 58 of the 1963 Limitation Act has designedly made a departure from the language of Article 120 of the 1908 Limitation Act. The word 'First' has been used between the words 'sue' and 'accrues'. Thus, the period of limitation will begin to run from the date when the right to sue first accrues. This would mean that if a Suit is based on multiple causes of action, the period of limitation begins to run from the date when the right to sue first accrues. To put it differently, successive violation of the right will not give rise to fresh cause and the Suit will be liable to be dismissed if it is beyond the period of limitation counted from the day when the right to sue first accrues. He has submitted that *MST Rukhmabai (Supra)*, the Supreme Court construed the former Article 120 of the Limitation Act and held that 'the right to sue accrues', mentioned therein from which the period of limitation of six years begins to run, is when the Defendant has clearly and unequivocally threatened to infringe the right asserted by the Plaintiff in the Suit.

20. Mr. Firoz Bharucha has submitted that the right to sue accrued only when the Petitioner responded to the notice under Section 433 and 434 of the Companies Act, 1956, when for the first time the Petitioner denied payment of balance amounts due under the purchase orders. He has submitted that till then there was no right to sue which accrued. He has submitted that the Respondent had thereafter taken appropriate legal proceedings under Section 433 and 434 of the Companies Act, 1956 within the period of limitation from the date when the right to sue accrued and which period is required to be excluded under Section 14 of the Limitation Act. Further, the parties had consented to referring the disputes to arbitration and hence, the claim of the Respondent in the Arbitration Petition is within the period three years from the right to sue accruing.

21. Mr. Firoz Bharucha has submitted that the law of limitation is not set in motion merely by passage of time. This is more so in the absence of a denial of liability. The interpretation of the relevant provisions of the law which are sought to be placed by the Petitioner would result in a travesty of justice. According to the Petitioner's interpretation of the relevant provisions of law, any party

that is required to make payment to an entity could orally agree to make the payment for a period of three years from the date on which the money first became payable and thereafter escape making payment of the said amounts even in the teeth of express written communication, not only acknowledging the liability but also promising to pay the same. Not only are the contentions of the Petitioner's self serving, but the same would have the effect of causing offence to the first principles of law.

22. Mr. Firoz Bharucha has submitted that in the event this Court is convinced with the Petitioner's contentions that the period of limitation for the Respondent to initiate legal proceedings expired on 12th February, 2013, the written acknowledgment of 18th February, 2013 would constitute a promise to pay a debt that is barred by limitation law and the same would necessarily be covered by Section 25 of the Indian Contract Act, 1872. He has submitted that though this contention had not been raised before the learned Arbitrator, it is a point of law and can be taken up in Section 34 proceedings. He has submitted that the Plaintiff / Petitioner may not accept the findings of the lower Court / Arbitrator whilst accepting the conclusion. He has placed reliance upon the decision of the Supreme Court in the

case of *Ravinder Kumar Sharma Vs. State of Assam and Ors.*¹² which is in the context of Order 41 Rule 22 of the Code of Civil Procedure in the context of cross objections. The Supreme Court considered the issue viz. that the findings relating to malice or the absence of reasonable and probable cause though not being correct, the Respondent / cross objector could be permitted to support the dismissal of the Suit by the High Court so far as the non pecuniary damages in A Schedule were concerned on that basis. The Supreme Court considered that it was permissible to do so. He has accordingly submitted that in the present case the conclusion of the learned Arbitrator is supported and not the findings.

23. Mr. Firoz Bharucha has further submitted that it is of utmost importance that the Respondent initiated the winding up proceedings against the Petitioner in August, 2015, which falls within the period of 3 years running from 18th February, 2013. This is in view of the fact that the Respondent was pursuing a legal remedy on the basis of written acknowledgment of liability which written acknowledgment was confirmed by the Petitioner. He has accordingly submitted that the period between August, 2015 and

¹² (1999) 7 Supreme Court Cases 435.

26th September, 2017 must be excluded whilst arriving at a finding as to whether the Respondent's claim was within limitation. He has placed reliance upon the decision of the Division Bench of this Court in *MSFC Vs. Belapur Sugar and Allied Industries Ltd.*¹³.

24. Having considered the rival submissions, in my view, what has been lost sight of by the Respondent in their reliance placed upon Article 113, formerly Article 120 of the Limitation Act, is that these Articles are residuary articles and expressly provide that where a Suit for which no period of limitation is provided elsewhere in the schedule the period of limitation begins to run when the right to sue accrues. Further, Article 58 of the Limitation Act is an Article concerning a Suit to obtain any other declaration where a period of limitation of three years is provided when the right to sue first accrues. The Residuary Article and Article 58 are inapplicable in the present case as there is an existing Article expressly providing for a period of three years for the price of goods sold and delivered from the date of delivery of the goods where there is no fixed credit period agreed upon. Further, past payment for the goods, would extend the period of limitation by a period of three years from last payment

¹³ 2004 (3) MhLJ 414.

made. Further, where there is an acknowledgment of liability / debt due, the relevant Section 18 of the Limitation Act expressly provides as under:-

(18) Effect of acknowledgment in writing.—(1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.

25. Thus, for Section 18 to apply, there has to be an acknowledgment of liability which must be in writing; and it must be made by such writing before the expiry of limitation. The decisions relied upon by Mr. Mustafa Doctor in *Sampuran Singh (Supra)* and *State of Kerala (Supra)* are apposite.

26. In the present case, there is no dispute with regard to the fact of the email being dated 18th February, 2013 recording the events which transpired at the meeting held between the Petitioner and Respondent on 4th February, 2013. There were no minutes of the said meeting in writing prior thereto. Further, the relevant fact is

that the last payment made by the Petitioner to the Respondent of US\$ 18232.17 was on 12th February, 2010 towards purchase orders dated 15th September, 2008 and 30th September, 2008 and thereafter there being no payments made for a period of three years from 12th February, 2010, which fact is undisputed. The statement of claim also proceeds on the basis that the claim is made under the purchase orders dated 15th September, 2008 and 30th September, 2008 for unpaid dues. Thus, the period of limitation would necessarily be three years from the last payment being made by the Petitioner and which period of limitation expired on 12th February, 2013. There being no acknowledgment in writing of the Petitioner before the expiration of the said prescribed period.

27. The impugned Award proceeds on the premise that there was an acknowledgment of liability made in writing signed by the party against whom such right is claimed by email dated 18th February, 2013 and which dates back to the meeting held on 4th February, 2013, this giving rise to a fresh period of limitation. However, the learned Arbitrator has lost sight of what has been expressly provided in Section 18 of the Limitation Act, as dating back of an acknowledgment finds no place in this provision. I find much

substance in the submission of Mr. Mustafa Doctor that there would be a hiatus if the email of 18th February, 2013 is treated as an acknowledgment giving rise to a fresh period of limitation i.e. the hiatus would be for the period from 12th February, 2013 till 18th February, 2013.

28. Thus, the finding of the learned Arbitrator in the impugned Award that the email of 18th February, 2013 is required to date back to 4th February, 2013 and thus there being extension of limitation is in my view patently illegal and runs contrary to Section 18 of the Limitation Act. Further, if one was to note the contents of the email of 18th February, 2013, there is a mere admission of past liability which has been held by the Supreme Court in ***Valliamma Champaka Pillai (Supra)*** to be not sufficient. There must be an acknowledgment of subsisting liability.

29. I further find that the impugned Award has noted the case of the Respondent for extension of limitation only based on three events, namely (i) an alleged part payment on 10th June, 2013; ii) correspondence in December 2014 and (iii) an adjustment payment of US\$ 10,000 on 9th and 20th January, 2015 mentioned in

Company Petition 2015. It was not even the Respondent's claim that the email of 18th February, 2013 is an acknowledgment. The learned Arbitrator has on his own placed reliance on the email dated 18th February, 2013 as an acknowledgment thereto which as held above is patently illegal.

30. The reliance placed by the Respondent on subsequent events i.e. after the expiry of period of limitation on 12th February, 2013, which includes the email dated 24th December, 2014 by which the Petitioner had asked the Respondent to provide to the Petitioner's Auditors the balance confirmation and the response thereto are in my view irrelevant, considering the above finding that the period of limitation expired on 12th February, 2013. It is well settled that merely asking for a statement without any expression of willingness to have it settled or a promise to pay, does not amount to acknowledgment. No jural relationship is established or continued.

31. Further, the reliance on alleged subsequent payments i.e. after the expiry of period of limitation on 12th February, 2013 are also thoroughly irrelevant and cannot extend the period of limitation.

32. The reliance placed by Mr. Phoroze Bharucha on Section 25 of the Contract Act to contend that the email dated 18th February, 2013 is a promise to pay a debt barred by limitation law is a thoroughly misplaced reliance upon said provision. The provision is with regard to an agreement without consideration would be void unless it is in writing and registered or is a promise to compensate for something done or is a promise to pay a debt barred by limitation law. In my view, this provision is thoroughly inapplicable in the present case as the email dated 18th February, 2013 cannot be considered to be a promise to pay a debt barred by limitation. This argument of Mr. Bharucha is made in desperation. This argument was not made before the learned Arbitrator and does not find place in the findings of the learned Arbitrator. The contention of Mr. Bharucha that the findings of the learned Arbitrator may not be accepted by the Respondent is also in my view an act of desperation. It is well settled by the Supreme Court in ***Union of India Vs. Susaka Private Ltd. (Supra)*** that if a point is not urged before an arbitrator, it cannot be raised thereafter including in proceedings under Section 34 Petition. Thus, there is no merit in the contentions of Mr. Bharucha.

33. The impugned Award being contrary to the law of limitation i.e. Section 18 of the Limitation Act is contrary to public policy. The decisions relied upon by Mr. Mustafa Doctor namely *N. Balakrishnan (Supra)* and *Pralhad Raut (Supra)* are apposite. Thus, the impugned Award requires to be set aside on the grounds of patent illegality and being contrary to public policy of India.

34. The Arbitration Petition is allowed in terms of prayer clause (a) by quashing and setting aside the impugned Award dated 18th October, 2019.

35. The Arbitration Petition is accordingly disposed of. There shall be no order as to costs.

36. At this stage, Mr. Mustafa Doctor has referred to the order dated 6th January, 2023 passed by this Court by which this Court had directed the Petitioner to deposit an amount of Rs.5 Crores with the Prothonotary and Senior Master of this Court within a period of six weeks from the order and which the Petitioner had thereafter done so. He has accordingly applied for withdrawal of the amount of Rs.5 Crores, considering that the Arbitration Petition has been dismissed.

37. Accordingly the Petitioner is permitted to make an application before the Prothonotary and Senior Master for withdrawal of sum of Rs.5 Crores along with accrued interest.

38. Mr. Madon the learned Counsel for the Respondent has sought a stay of this judgment.

39. In that view of the matter, for a period of four weeks from today, the Petitioner shall not proceed with the application for withdrawal of the amount of Rs.5 Crores deposited with the Prothonotary and Senior Master of this Court.

[R.I. CHAGLA J.]