

Arjun

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

ARBITRATION PETITION NO.208 OF 2024

Stay Vista Private Limited	...Petitioner
<i>Versus</i>	
Vikram Munshi	...Respondent

Mr. Aseem Naphade a/w Fatema Tankiwala i/b LJ Law, for the Petitioner.

Mr. Yash Momaya a/w Neha Shah i/b AMR Law, for the Respondent.

CORAM: MADHAV J. JAMDAR, J.
DATED: 01 OCTOBER 2024

P.C.:

1. Heard Mr. Naphade, learned Counsel for the Petitioner and Mr. Momaya, learned Counsel for the Respondent.
2. The present Arbitration Petition has been filed under Section 27 of the *Arbitration And Conciliation Act, 1996* (“**said Act**”) *inter alia* seeking following reliefs:-

“(a) that this Hon'ble Court be pleased to direct the Respondent to produce before the Arbitral Tribunal the Electricity Bills for the period from November 2019 to November 2020 in respect of Consumer No.024100007769 and Meter No.06206070 which pertain to the subject property i.e. "Munshi House" located at Katalpada, Agarsule Phata, Alibaug 402201;

(b) In the alternative to prayer clause (a) above this Hon'ble

Court be pleased to direct the Maharashtra State Electricity Distributor Company Limited (MSEDCL) to produce before the Arbitral Tribunal the Electricity Bills for the period from November 2019 to November 2020 in respect of Consumer No.024100007769 and Meter No.06206070 which pertain to the subject property i.e. "Munshi House" located at Katalpada, Agarsule Phata, Alibaug 402201 issued by MSEDCL;"

3. Mr. Momaya, learned Counsel for the Respondent states that the Respondent is not having the relevant document as set out in prayer clause (a). The paryer clause (b) which is the alternate relief, seeks that the Maharashtra State Electricity Distribution Company Limited (MSEDCL) be directed to produce before the Hon'ble Tribunal the original and/or certified copy of Electricity Bills from November 2019 to November 2020 in respect of Consumer No.024100007769.

4. Section 27 of the said Act reads as under:-

“27. Court assistance in taking evidence.—(1) The arbitral tribunal, or a party with the approval of the arbitral tribunal, may apply to the Court for assistance in taking evidence.

(2) The application shall specify—

(a) the names and addresses of the parties and the arbitrators;

(b) the general nature of the claim and the relief sought;

(c) the evidence to be obtained, in particular,—

(i) the name and address of any person to be heard as witness or expert witness and a statement of the subject-matter of the testimony required;

(ii) the description of any document to be produced or property to be inspected.

(3) The Court may, within its competence and according to its rules on taking evidence, execute the request by ordering that the evidence be provided directly to the arbitral tribunal.

(4) The Court may, while making an order under sub-section (3), issue the same processes to witnesses as it may issue in suits tried before it.

(5) Persons failing to attend in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitral tribunal during the conduct of arbitral proceedings, shall be subject to the like disadvantages, penalties and punishments by order of the Court on the representation of the arbitral tribunal as they would incur for the like offences in suits tried before the Court.

(6) In this section the expression “Processes” includes summonses and commissions for the examination of witnesses and summonses to produce documents.”

(Emphasis added)

5. Order XVI Rule 6 of the Code of Civil Procedure, 1908 is as follows:-

*“6. **Summons to produce document.**—Any person may be summoned to produce a document, without being summoned to give evidence, and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.”*

6. Thus, this Court is empowered to pass Order by directing that the evidence in the form of documents be produced before the Arbitral Tribunal. As in this case the Respondent has stated that the relevant

documents are not in the custody of the Respondent, the alternative prayer clause (b) seeking direction to the Maharashtra State Electricity Distribution Company Limited (MSEDCL) is required to be granted.

7. Thus, the Arbitration Petition is allowed in terms of prayer clause (b).

8. Accordingly, the MSEDCL is directed to produce before Mr. Ranjeev P. Carvalho, the Sole Arbitrator, having address at 501/502, Shanti Building, Banaji Street, Fort, Mumbai- 400010 the documents mentioned in prayer clause (b) within 4 weeks.

[MADHAV J. JAMDAR, J.]