

ORDER BELOW EXH. 18 IN CIVIL M. A. 551/2019
(Alok Raghuwanshi & anr. Vs. Bajaj Finance Ltd. & anr.)
(CNR No. MHPU010077102019)

Respondent No. 1 has moved present application with a prayer that a preliminary issue regarding maintainability of main application on account of non-compliance of mandatory provision contained under Section 34(5) of the Arbitration and Conciliation Act, 1996 be framed and decide before deciding the main application.

2] Application is opposed by Applicant by filing detailed Say below Exh. 27 with a prayer to reject the application.

3] Heard the learned Advocate for Applicant. The learned Advocate for Respondent No. 1 is absent when called out repeatedly.

4] According to Respondent No. 1, the main application filed under Section 34 of the Arbitration and Conciliation Act to challenge Award dated 11/09/2015 passed by the sole Arbitrator in Arbitration Application No. Lot 2, June 017/2015. According to the Respondent, the Applicant had not complied with mandatory provision contained under Section 34(5) of the Arbitration and Conciliation Act in respect of issuance of prior notice and signed copy of Award. He also contended that a necessary preliminary issue to that effect may be framed.

5] The Applicant has opposed the application on the ground that the compliance of Section 34(5) has already been done.

6] Considering the submissions of the parties, it appears that Respondent No. 1 has raised plea of maintainability of the main application on the ground of non-compliance of Section 34 of the Arbitration and Conciliation Act, 1996. The question whether compliance of Section 34(5) of Arbitration and Conciliation Act has been made or not, same has to be decided on merits and for that purpose a formal issue is necessary. Hence, it is necessary to frame a formal issue to that effect. Hence, following order -

ORDER

1] Application is allowed.

2] Following preliminary issue is framed -

Whether Applicant has complied with Section 34(5) of the Arbitration and Conciliation Act, 1996.

3] Parties to argue on the issue.

Pune
Date : 16/02/2021

(D. D. Almale)
Adhoc District Judge – 8, Pune

CERTIFICATE

I affirm that the contents of this P.D.F.,file judgment are same word for word as per original Judgment.

Name of Steno :- Smt. S. S. Phadke (Steno- Grade-I)

Court Name :- Shri. D. D. Almale
Ad hoc District Judge – 8, Pune.

Date :- 16/02/2021

Order signed by
P.O. On :- 16/02/2021

Order uploaded on :- 17/02/2021