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N.Y. Slip Op. 13868

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Supreme Court, Appellate Division,
Second Department, New York.

In the Matter of SHEFA UNLIMITED, INC., et al.,
appellants,
v.
544 PARK AVENUE REALTY, LLC, et al.,
respondents.

May 5, 2003.

[Sol Mermelstein](#), Brooklyn, N.Y. ([S. Herman Klarsfeld](#) of counsel), for appellants.

Moritt, Hock, Hamroff & Horowitz, LLP, Garden City, N.Y. (William P. Laino of counsel), for respondents.

In a proceeding, inter alia, pursuant to CPLR article 75 to compel arbitration, the petitioners appeal from so much of an order of the Supreme Court, Kings County (Mason, J.), dated January 15, 2002, as granted that branch of the respondents' motion which was to vacate a prior order of the same court, dated June 11, 2001, compelling arbitration and remit the landlord-tenant dispute between the parties to the Civil Court.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The Supreme Court providently exercised its discretion in vacating its prior order compelling arbitration and remitting the matter to the Civil Court (see [Bellevue-Santiago v. City Ready Mix Inc.](#), 270 A.D.2d 441, 705 N.Y.S.2d 275; [56 Marquis v. Mosello](#), 239 A.D.2d 544, 545, 658 N.Y.S.2d 86; [Block v. Block](#), 153 A.D.2d 601, 544 N.Y.S.2d 636; 2 Carmody-Wait 2d, Motions and Orders § 8:125, at 512).

[S. MILLER](#), J.P., [GOLDSTEIN](#), [COZIER](#) and [MASTRO](#), JJ., concur.

758 N.Y.S.2d 508 (Mem), 305 A.D.2d 419, 2003