IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 322 OF 2014

Dinesh Brijmohan Pokhriyal ..Applicant

Vs.

M/s. Unique Securities through its partner
Mr. Paresh Popat ..Respondent

Mr. Mandar Limaye i/b Mr. M. S. Lagu for the Applicant

Mr. Udayan Jain for the Respondent

CORAM : R. M. SAVANT, J.
DATE : 29th JANUARY, 2015

P.C.

1 The Revisionary Jurisdiction of this Court is invoked against the order dated 28-3-2013 and the order dated 13-9-2013 passed by the Learned District Judge -1 Kalyan, by which orders, the application Exhibit 22 and the application Exhibit 30 filed by the Applicant / Judgment Debtor questioning the maintainability of the execution proceedings and seeking review of the order dated 25-3-2013, came to be rejected.

2 The execution proceedings in question being Regular Darkhast No.62 of 2011 has been filed by the Respondent M/s. Unique Securities for

execution of the Award dated 31-10-2008 passed by the panel of Arbitrators of the National Stock Exchange of India Ltd. The objection to the execution proceeding is raised on the ground that though the Award is in the name of M/s. Unique Securities Ltd. the execution application has been filed by M/s. Unique Securities through its partner one Mr. Paresh Popat. It is the case of the Plaintiff that the execution proceeding filed by M/s. Unique Securities which is a partnership firm is not maintainable. The said objection raised on behalf of the Judgment Debtor has been rejected by the Executing court i.e. the Learned District Judge-1, Kalyan, by the impugned order dated 28-3-2013. The Petitioner thereafter filed Review Application being Exhibit 30 which was rejected by the subsequent order dated 13-9-2013 as according to the Executing Court no case for review was made out.

3 It is required to be noted that a correction Award came to be passed on 26-11-2008 by the panel of Arbitrators which correction Award shows that it is in the name of M/s. Unique Securities. It is further required to be noted that the Judgment Debtor had filed Arbitration Petition No.404 of 2009 challenging the said Award wherein he had joined M/s. Unique Securities as the Respondent to the said Arbitration Petition, which Petition came to be dismissed by a Learned Single Judge of this Court by order dated 1-4-2011. The said order was thereafter carried in Appeal before a Division Bench of this Court by way of an Appeal (L) No.716 of 2011 in Arbitration Petition No.404

of 2009. The said Appeal came to be dismissed by a Division Bench of this Court by order dated 17-8-2012. In the said Appeal, the Judgment Debtor had arrayed M/s. Unique Securities as the Respondent. The Executing Court having regard to the aforesaid facts did not find merit in the objection which was raised on behalf of the Judgment Debtor and as indicated above has accordingly rejected the application Exhibit 22. After the rejection of the application Exhibit 22, the Applicant filed a Review Application as indicated above which has also been rejected.

4 In the context of the objection raised on behalf of the Judgment Debtor, it is required to be noted that in the letter forwarding the Award to the parties the Applicant is shown as M/s. Unique Securities. However, it seems that in the cause title of the original Award there is a mistake and the word "Ltd" is suffixed to the words " M/s. Unique Securities". It seems that after exhausting his remedies against the Award, the Applicant seems to have adopted the instant course of action and objected to the execution on the ground that the Award is in the name of M/s. Unique Securities Ltd. whereas the execution has been filed by M/s. Unique Securities. The reasons are not far to seek as the Applicant can be said to be only interested in delaying the execution of the Award on some pretext or the other.

5 In that view of the matter, no case for interference in the

Revisionary Jurisdiction of this Court is made out. The Civil Revision Application is accordingly dismissed.

6 In the facts and circumstances of the case, the hearing of the execution proceedings is expedited.

[R.M.SAVANT, J]