IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3549 OF 2015

Prince Kalra
Proprietor of M/s. Fairdeal Trader .. Petitioner
vs.
Indiabulls Financial Services Limited
and anr. .. Respondents

Mr. Sachin Pawar for the Petitioner.

CORAM : M. S. SONAK, J.
DATE : 7 April, 2015.

P.C. :-

1] Not on board. Upon production, taken on board.

2] This petition challenges the order dated 11 February 2015, made by the Extra Joint Ad-hoc District Judge-1, Pune, dismissing the petitioner's application under Section 47 of the Code of Civil Procedure, 1908 (CPC) objecting to execution of Arbitratal Award 7 August 2010.

3] The learned counsel for the petitioner submitted that since the petition under Section 34 of the Arbitration and Conciliation Act, 1996 (said Act) is pending, in the light of the decision of this Court in case of *Reliance Securities Ltd. vs. Badrinath Bodhai & others – 2011(3) Mh.L.J. 327,* the Arbitral Award is unenforceable. The learned counsel further pointed out that this is a case where the

Arbitral Award was made without proper notice to the petitioner and further the copy of Arbitral Award was never served upon the petitioner. For all the above reasons, the learned counsel for the petitioner submitted that the execution proceedings ought to have been stayed atleast and until the disposal of the petition under Section 34 of the said Act, instituted by the petitioner.

4] In the present case, the Arbitral Award came to be made in Delhi on 7 August 2010. The execution had, in fact, been instituted in Delhi, but the same was transferred to the Court of Extra Joint Ad-hoc District Judge-1, Pune. The impugned order records that the notices of arbitral proceedings were sent to the petitioner by the Registered Post A.D. as well as under Certificate of Posting and even acknowledgement receipts were received by the office of the Arbitrator. Further, the notices with regard to execution proceedings were published in newspaper by way of substituted service.

5] The so called Arbitration Petition under Section 34 of the said Act has been instituted by the petitioner only 18 June 2014, when the award was made on 7 August 2010. The petition, was accordingly instituted much beyond the prescribed period of limitation. Further, it is quite doubtful as to whether such petition is at all maintainable in the Court of District Judge Pune, when in fact the award was made by Retired Additional District Judge in Delhi. However, this is not the occasion for deciding the issues of territorial jurisdiction.

6] The decision in the case of *Reliance Securities Limited (supra)*, however, cannot apply to the facts and circumstances of the present case, when the petition under Section 34 of the said Act has been filed almost four years after making of the Arbitral Award.

7] In the aforesaid circumstances, there is no merit in this petition. The impugned order does not suffer from any jurisdictional error.

8] Accordingly, this petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)