

Mr. S. U. Kamdar, Senior Advocate with Mr. Zubin Behramkamdin, Ms Shaheda Madraswala and Ms Trisha Sarkar i/b. Bharucha & Partners for Petitioners.

Mr. Virag Tulzapurkar, Senior Counsel with Ms Sowmya Srikrishna, Ms Swati Singh and Mr. P. Shroff i/b. AZB & Partners for Respondents.

P.C. :

Heard Mr. Kamdar, learned Senior Counsel for petitioners and Mr. Tulzapurkar, learned Senior Counsel for respondents at length.

2. By this Petition under Article 227 of the Constitution of India, petitioners have challenged the judgment and order dated 21.09.2015 passed by the learned Principal District Judge, Daman in Regular Civil Appeal No.3 of 2015. By that order, the learned District Judge stayed the order dated 11.07.2015 passed by the Arbitral Tribunal.

3. Mr. Kamdar submitted that Principal District Judge, Daman did not have jurisdiction to entertain and try the Appeal. In any case, this Court and Principal District Judge, Daman have concurrent jurisdiction. In such event, respondents ought to have filed Appeal in this Court and not in the District Court. In support of this submission, he relied upon the following decisions:

a. *State of Maharashtra Vs. Atlanta Limited*, (2014) 11 SCC 619; and

b. *State of West Bengal Vs. Associated Contractors*, (2015) 1 SCC 32.

4. I find merit in this submission. During the course of hearing, I suggested to Mr. Tulzapurkar to consider withdrawing Appeal filed before the Principal District Judge, Daman and file Appeal in this Court.

5. Mr. Tulzapurkar, upon taking instructions, states that respondents wish to withdraw Regular Civil Appeal No.3 of 2015 filed in the Principal Civil Court at Daman and will file Appeal in this Court against the order dated 11.07.2015 in this Court. He further states that the stay granted by the learned District Judge may be continued upto 07.12.2015. He assures that respondents will not seek further extension.

6. In view thereof, the impugned order passed by the learned Principal District Judge is dissolved. Respondents are permitted to withdraw Regular Civil Appeal No.3 of 2015 filed in the Principal Civil Court at Daman with liberty to file Appeal in this Court challenging the order dated 11.07.2015 passed by the Arbitral Tribunal. All the contentions of the parties on merits are expressly kept open. Order accordingly.

7. Notwithstanding withdrawal of the Appeal, order dated 21.09.2015 staying operation of order dated 11.07.2015 of Arbitral Tribunal shall remain in force upto and inclusive of 07.12.2015. It is expressly made clear that request of respondents for extension of the interim relief will not be entertained.

8. Petition is disposed of accordingly.

(R. G. KETKAR, J.)