

IN THE HIGH COURT OF BOMBAY AT GOA

EXECUTION APPLICATION NO. 1 OF 2016

MASYC PROJECTS PRIVATE LIMITED. ... Appellant
Versus
VEDANTA LIMITED @ SESA GOA
LIMITED. ... Respondent

Mr. Tarun Sharma with Mr. B. Prabha, Mr. Ganesh R. Naik, and
Kohika Gaur, Advocates for the applicant.
Mr. D. Pangam, Advocate for the respondent.

Coram:- F. M. REIS, J.

Date:- 29th July, 2016

P.C.

After hearing the matter for some time, the learned counsel appearing for the decree holder has placed reliance on the judgments of the Madras High Court in the case of Kotak Mahindra Bank Ltd. V/s Sivakama Sundari S. Narayana S. B. Murthy as well as Delhi High Court in the case of Daelim Industrial Co. Ltd., Vs Numaligarh Refinery Ltd., to point out that a formal order of transmission in terms of Section 38 of C.P.C. is not necessary. The learned counsel has brought to my notice the observations of the Madras High Court which clearly specify that such Execution Proceedings filed before the original side are to be returned to the concerned decree holder to enable them to file before the appropriate Court.

2. Mr. Pangam, learned counsel appearing for the respondent

has disputed the said contention and relied upon by the said provisions of Section 42 of the Arbitration and Conciliation Act, 1996.

3. On examining the ratio laid down by the Madras High Court as well as Delhi High Court, a formal order in terms of Section 38 would not be required but however, the Court of original jurisdiction in terms of the Arbitration Act, 1996 is the District Court. The Registry is accordingly directed to return the Execution Proceedings in accordance with the Rules to enable the decree holder to file the Execution Proceedings before the appropriate Court. All contentions of the respondent are left open. The application stands disposed of accordingly.

F. M. REIS, J.

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