

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO**

CIVIL MISCELLANEOUS APPEAL No.908 OF 2012

JUDGMENT (per Hon'ble Sri Justice Sanjay Kumar)

This civil miscellaneous appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for brevity, 'the Act of 1996'), arises out of the order dated 02.08.2012 passed by the learned District Judge, Krishna, Machilipatnam, in A.O.P.No.2 of 2008, returning the petition filed by the appellant herein under Section 34 of the Act of 1996 on the ground that the said Court had no territorial jurisdiction to entertain the same.

Reliance is placed upon the judgment of a Division Bench of this Court in **Bharath Sanchar Nigam Limited, Vijayawada v. S. Satya Durga Dass**^[1] which categorically held that the forum for filing proceedings for setting aside an award under Section 34 of the Act of 1996 would have to be decided taking into account the principles underlying Sections 16 to 20 C.P.C.

In that view of the matter, the finding of the learned District Judge, Krishna, Machilipatnam, that he had no jurisdiction in the matter cannot be sustained as the arbitration agreement was admittedly executed at Vijayawada and therefore, part of the cause of action is relatable to that location. Sri Y. Vasudeva Rao, learned counsel appearing for the respondents, also fairly concedes this legal position.

The order under appeal is accordingly set aside and the matter is remitted to the learned District Judge, Krishna, Machilipatnam, to decide the petition afresh duly taking into account any delegation of powers of the District Court in Krishna District. In the event the petition under Section 34 of the Act of 1996 is entertained, the learned District Judge shall endeavour to dispose of the matter expeditiously.

The civil miscellaneous appeal is accordingly allowed.

Pending miscellaneous petitions, if any, shall stand closed in the

light of this final order. No order as to costs.

SANJAY KUMAR, J

DR. B.SIVA SANKARA RAO, J

Date: 05.07.2016
GJ

[\[1\]](#) 2014 (1) ALD 734 (DB)