

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 34 OF 2017

ELEGANCE FINANCIAL PVT. LTD., REP.
BY THE DIRECTOR VENKATESH P.
DESHPANDE.,

... Petitioner

Versus

SHRI. SHANKAR TORASKAR.,

... Respondent

Mr. Jagannath Jayant Mulgaonkar, Advocate for the petitioner.
Mr. Devidas J. Pangam, Advocate for the respondent.

Coram:- F. M. REIS, J.

Date:- 29th March, 2017

P.C.

Heard Shri J. J. Mulgaonkar, the learned Counsel appearing for the petitioner and Shri D. J. Pangam, the learned Counsel appearing for the respondent.

2. The challenge in this petition is to the order passed by the learned District Judge in Regular Execution Application No.16/2013, rejecting the preliminary objection raised by the petitioner, with regard to the maintainability of such application. Execution Application filed by the respondent is essentially to execute the award passed by the Arbitrator dated 07/02/2003. The operative part of the said award is at page No.30, which reads thus :

"I direct the respondent, Mr. Shankar B. Toraskar, Proprietor, Himachal Investment to pay to applicant no.1, Elegance Financials Private Ltd., an amount of Rs.6,38,521/- (Rupees-

-Six lakh thirty eight thousand five hundred twenty one only), together with interest @ 18 % p.a. from the 1st January 2003 till the date of payment; and the applicant no.1 to hand over to the respondent immediately upon receipt of the payment the shares listed in paragraph 11, ante."

3. The said award itself discloses that the shares had to be delivered to the respondent- shareholder. The learned Judge, by the impugned order, has discussed the issues involved and has rightly rejected the preliminary objection filed by the petitioner. I find no infirmity in the finding recorded by the learned Judge while passing the impugned order. The award has to be executed for the recovery of the shares. In such circumstances, I find that there is no jurisdictional error committed by the learned Judge while passing the impugned order, which requires interference in the Writ Petition. The Writ Petition is, accordingly, rejected.

4. Needless to say that the learned Judge shall proceed to decide the Execution Proceedings as expeditiously as possible. All the contentions of the parties on merits, are kept open.

F. M. REIS, J.

SMA