

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL UNDER ARBITRATION ACT NO. 6 OF 2017

SUDAR INDUSTRIES LTD., REP. THR.
ITS DIRECTOR, SHIR. DEEPAK
SHENOY.,

... Appellant

Versus

ROYALLINE RESOURCES LTD. AND ANR.,

... Respondents

Shri Shivan Desai and Shri Jatin Ramaiya, Advocate for the
Appellant.

Shri S.S. Kantak, Senior Advocate with Shri P. Vikram and Shri
Hanumant D. Naik, Advocate for the Respondents.

Coram:- C. V. BHADANG, J.

Date:- 28th February, 2017

ORAL ORDER:

Heard for sometime.

2. The present appeal u/s 37 of the Arbitration and Conciliation Act, 1996 (Act, for short) is directed against judgment and order dated 21/02/2017 passed by the learned Principal District Judge, South Goa at Margao in Arbitration Application No.3/2017. By the impugned judgment, the application filed by the appellant u/s 9 of the Act has been dismissed, mainly on the ground of want of territorial jurisdiction.

3. Shri Desai, the learned Counsel for the appellant, on instructions, states that in view of the fact that there are two

Courts having concurrent jurisdiction, the appellant voluntarily accepts the territorial jurisdiction of the Mumbai Court to entertain an application under Section 9 of the Arbitration and Conciliation Act, 1996. In view of this statement, the learned Counsel for the appellant seeks leave to withdraw the appeal with liberty to approach the competent Court at Mumbai with an application under Section 9 of the Act.

4. Shri Kantak, the learned Senior Counsel for the respondents has no objection for the same.

5. In view of this, the following order is passed:

ORDER

(i) The appeal is disposed off as withdrawn with liberty as prayed.

(ii) It is made clear that the observations and the findings of the learned District Judge, in so far as the merits of the claim under Section 9 of the Act are concerned, shall not come in the way of the appellant, if an application u/s 9 of the Act is filed before the competent Court at Mumbai.

(iii) The rival contentions of the parties including on the validity

of the MOS dated 21/06/2016 are expressly left open.

(iv) The interim relief in terms of prayer clause 26(b) shall continue to operate till 16/03/2017.

(v) In the circumstances, there shall be no order as to costs.

6. Parties to act on the authenticated copy of the order.

C. V. BHADANG, J.

NH