

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

ARBITRATION PETITION No. 229 OF 2017

**Siddivinayak Travels
through its Proprietor
Pravin Ratanshi Shah**

....Petitioner

Vs.

AU Financers (India) Ltd. and Anr.

....Respondents

Mr. S.D. Patil for Petitioner

Mr. Shashank Choudhary i/b. Sachin Masurkar for Respondents

CORAM : M.S. SANKLECHA, J.
THURSDAY, 7TH DECEMBER, 2017

P.C.

1. This petition under Section 34 of the Arbitration and Conciliation Act, 1996 (the Act) challenges the Arbitral Award dated 15th January, 2016 passed by the Arbitral Tribunal in Jaipur.

2. Mr. Choudhary, learned counsel appearing for the Respondents raises a preliminary objection that the petition would not lie before this Court but before a Court at Jaipur. This for the reason that not only the seat of the arbitration is at Jaipur but an application under Section 9 of the Act was also filed by the Respondents herein before the Jaipur

Court before this petition was filed. Consequently, in view of Section 42 of the Act the Court at Jaipur alone would have jurisdiction as that was the Court where the first application in respect of arbitration petition was made.

3. Mr. Patil, learned counsel appearing for the Petitioner states that this petition has been filed in this Court in view of the Respondents having commenced proceedings for enforcement of the award in Mumbai. Thus it is submitted that this Court would have jurisdiction to entertain this petition and placed reliance upon the decision of this Court in *Mrunal Indrakumar Jhaveri & Ors. vs. M/s. Choramandalam Investment & Finance Co. Ltd. in Commercial Arbitration Petition No. 17 of 2017 dated 13th October, 2017.*

4. Mr. Choudhary, learned counsel for the Respondents, states that in view of the decision of this Court in *Mrunal Indrakumar Jhaveri (supra.)* he has been instructed that the Respondents would adopt / initiate execution proceedings in respect of the impugned award in Jaipur Court. Therefor, the Respondents would have the award/ decree transferred to Mumbai in accordance with the Code of Civil Procedure,

1908.

5. In view of above statement on behalf of the Respondents, Mr. Patil, learned counsel for the Petitioner seeks to withdraw the petition with liberty to file it before the Jaipur Court .

6. All other contentions including the issue of limitation urged by the Respondents are left open. Arbitration petition disposed of as withdrawn. No orders as to costs.

[M. S. SANKLECHA, J.]