

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

ARBITRATION PETITION NO.16 OF 2017

**M/s. Aditya Birla Money Limited
Versus**

..Petitioner

Mr. Prashant Madhukar Ahirao

..Respondent

**Mr. Avnendra Kumar a/w Mr. Amiy Kumar i/by K. Juris for the
Petitioner.**

Ms. Deepa Ahuja i/by Arun Sapkal & Co., for the Respondent.

CORAM : R. M. SAVANT, J.

DATE : 18th APRIL, 2017

PC.

1 The above Arbitration Petition takes exception to the Award dated 27.07.2016 passed by Sole Arbitrator appointed by the National Stock Exchange of India Ltd. ("NSE" for short) to arbitrate the disputes between the Petitioner and the Respondent in the Arbitral Proceedings being AM No.CDS/M-0002/2016.

2 The Respondent i.e. the investor has filed an affidavit in reply wherein preliminary objections have been taken as regards the maintainability of the above Arbitration Petition on two fold grounds, firstly that the Petitioner having not challenged the Award by way of an Appeal which is provided under the SEBI Circulars which form part of the bye laws of the NSE and especially clause 6 thereof, which stipulates the

appellate jurisdiction, the said Award has become final and binding. The second ground is that in terms of amended clause 8 by virtue of which amendment, clause 8.3 is inserted, the Petition under Section 34 of the Arbitration and Conciliation Act, 1996 (For short "the said Act") was required to be filed in the Competent Court nearest to the address provided by the client in the KYC form. In the instant case, the address of the Respondent being that of Nagpur, it would be before the Nagpur Bench of this Court that the above Petition was required to be filed.

3 However taking the first ground, it is required to be noted that in terms of the Circulars which form part of the bye laws of the NSE an Appeal is provided from the Award passed by the Sole Arbitrator to a panel of three Arbitrators as mentioned in clause 6.3 of clause 6 of the bye laws within one month. The Petitioner did not invoke the Appeal provision but has directly rushed to this Court by way of the above Petition filed under Section 34 of the said Act. The Award was passed on 27.07.2016 and the instant Petition has been filed on 07.11.2016 i.e. a good four months after the Award was passed. Hence the time to file the Appeal was already over when the above Petition was filed by the Petitioner. The sequitur to the same would be that the Award had become final and binding. In my view, therefore the above Petition is not maintainable and would have to be dismissed on the said ground of the

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Award becoming final and binding in view of the fact that no Appeal was filed by the Petitioner within the time stipulated in clause 6 of the bye laws of the NSE. The Arbitration Petition is accordingly dismissed on the said ground.

[R.M.SAVANT, J]