

In the High Court of Judicature at Madras

Dated: 05.09.2017

Coram

The Honourable **Dr.JUSTICE ANITA SUMANTH**

Original Petition No.711 of 2014

India Infoline Limited
75/35A, Nirlon Complex,
Off Western Express Highway,
Mumbai - 400 063
having its branch office at
No.143, M.G.R. Road,
Perungudi, Chennai
represented by its Authorised Signatory
S.Shankara Narayanan

..... Petitioner

Vs.

1. P.Balakrishnan
2. V.Vasuden,
Arbitrator,
National Stock Exchange Limited,
8th Floor, Arihand Nitco Park,
No.90, Radhakrishnan Salai, Mylapore,
Chennai - 600 004.

..... Respondents

PETITION filed under Section 34 of the Arbitration and Conciliation Act, 1996 to set aside the award of the Arbitrator in the National Stock Exchange, Chennai in New Arbitration No.(A.M.) CM/C-0011/2014 dated 01.08.2014.

For Petitioner : Mr.G.Surya Narayanan

For Respondent: Mr.Hari Radhakrishnan - R1

O R D E R

of the Arbitration and Conciliation Act, 1996 (in short 'Act') challenging award dated 01.08.2014, passed by the learned Arbitrator appointed by the National Stock Exchange.

2. Heard learned counsel appearing for the parties and perused the materials placed before the Court.

3. A preliminary objection is raised by the learned counsel for the respondent to the effect that the present petition is not maintainable. He would point out that initially an award dated 22.2.2011, had been passed by a sole Arbitrator in terms of the Rules and Regulations of the National Stock Exchange of India in A.M. No.CM/C-0061/2010 that had been the subject matter of challenge before the District Judge at Ernakulam in O.P.No.575 of 2011.

4. The Court, after considering the submissions of both parties, passed an order dated 04.12.2013 allowing the Original Petition and setting aside award dated 22.2.2011, leaving the parties to proceed with arbitration afresh. Pursuant thereto, arbitration proceedings were initiated by the parties resulting in award dated 01.08.2014 impugned in the present petition.

5. Both parties to this Original Petition were represented in the proceedings before the District Court at Ernakulam as well as before the Arbitrator in the proceedings pursuant to the setting aside of the award

dated 22.02.2011 by the District Court. Jurisdiction as between the parties is thus conferred upon the District Court at Ernakulam in the light of section 42 of the Act, reading thus:

'42. Jurisdiction - Notwithstanding anything contained elsewhere in this Part or in any other law for the time being in force, where with respect to an arbitration agreement any application under this Part has been made in a Court, that Court alone shall have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court.'

6. A perusal of the provision would show that once jurisdiction is conferred upon a specific Court, then that Court alone shall have exclusive jurisdiction in respect of arbitral proceedings and any other applications arising out of that agreement. Hence, in terms of Section 42 of the Act, jurisdiction as between the parties to this petition lies with the District Judge, Ernakulam.

7. Mr.Hari Radhakrishnan, learned counsel appearing for the respondent would point out that in fact, an Original Petition has been filed by the respondent in this

same award as impugned in the present OP.

8. Accordingly, the present Original Petition stands transferred to the District Judge, Ernakulam, who is requested to hear and dispose of the same along with the Original Petition filed by the respondent herein.

9. It appears that an order of stay dated 14.12.2015 has been granted by this Court in respect of the disbursement of the amount pursuant to the present impugned award. The order of stay will continue for a period of eight (8) weeks from the date of receipt of a copy of this order and the continuance or otherwise of the same may be considered by the District Judge, Ernakulam on priority before taking the matters up for final hearing.

10. Ordered accordingly with no order as to costs.

sd/.A.S.M.J

05.09.2017

//Certified to be a true copy//

Dated this the day of 2017

R.s/23.11.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.