IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 14TH DAY OF DECEMBER 2017

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

A.Nos.417 and 418 of 2017
and
A.No.5008 of 2017
in
O.P.No.84 of 2017

Arbitration Matter (A.M)
No.CM/C-0011/2016
In the Matter of Arbitration
and Conciliation Act, 1996
and
In the matter of award of the
National Stock Exchange,
Chennai dated 19.10.2016

Angel Broking Private Limited,
Akruit Trade Centre, Unit No.G1,
Ground Floor, MIDC Road, No.7,
Andheri (E),
Mumbai 400 093
Represented by Mr.E.Aravindan ...Applicant/Petitioner
(in A.Nos.417 and 418 of 2017)

Vs

1. Mr.S.X.J.Vasan,
No.11, Ayyavu Street,
Aminjikarai, Chennai 600 029
...Respondent/Claimant
2. The National Stock Exchange Ltd.,
Having office at 8th Floor,
Arihant Nitco Park,
90, Dr.Radhakrishnan Salai,
Mylapore,
Chennai 600 004 ...2nd Respondent/Respondent
(in A.Nos.417 and 418 of 2017)

A.No.417 of 2017

Application praying that this Hon'ble Court be pleased to grant stay of the operation of the award in A.M.No.CM/C-0011/2016 on the file of 2nd respondent pending diposal of Section 34 application.

A.No.417 of 2017

Application praying that this Hon'ble Court be pleased to direct the 2nd respondent to deposit the sum of Rs.16,84,600/- withheld by them pursuant by the letter dated 13.05.2016, to the credit of this O.P. on the file of this Honourable Court pending disposal of Section 34 application.

A.No.5008 of 2017:-

Mr.S.X.J.Vasan,
No.11, Ayyavu Street,
Aminjikarai, Chennai 600 029
..1st Respondent/Respondent/Applicant

Vs

1. Angel Broking Private Limited,
Akruthi Trade Centre, Unit No.91,
Ground Floor, MIDC Road, No.7,
Andheri (East),
Mumbai 400 093
Represented by Mr.E.Aravindan
..1st Respondent/Respondent/Applicant
2. The National Stock Exchange,
Having office at 8th Floor,
Arihant Nitco Park,
90, Dr.Radhakrishnan Salai,
Mylapore,
Chennai 600 004
..2nd Respondent/Respondent/2nd Respondent

Application praying that this Hon'ble Court be pleased to vacate the stay granted in Application No.417 of 2017 in O.P.No.84 of 2017 dated 03-02-2017.

These applications coming on this day before this Court for hearing the court made the following order:-

For the sake of convenience, the parties are referred as per their rank in the main original petition.

2.The respondent was the client of the petitioner. Before invoking the arbitration clause, the petitioner approached the conciliation mechanism before the Investors Grievance Redressal Panel (for short 'IGRP'). The petitioner without prejudice made a statement that the loss which could have been caused to the respondent was Rs.37.61 lakhs. IGRP gave a factual finding that the first respondent informed the petitioner that he would send the cheque in due course which had also sent a scanned copy of the cheque for Rs.11 lakhs. It was observed that the petitioner did not raise any dispute about the non-receipt of Rs.11 lakhs till the same was pointed out by the IGRP. Therefore, an inference was drawn that the petitioner was given a cheque for Rs.11 lakhs but it was not presented for payment. This was taken note of by the Arbitration Tribunal.

3.Learned counsel appearing for the applicant in A. No.417 of 2017 would submit that the award suffers from perversity. There is no material to substantiate the averments made in the claim petition. It is also submitted that in compliance with the order passed by this Court, entire amount already paid has been deducted by the Stock Exchange immediately after the order passed by the IGRP. Learned counsel appearing for the applicant in A. No.5008 of 2017 would submit that inasmuch as the award has been passed on analysis of the factual scenario, no interference is required and therefore, the application will have to be allowed.

4.The issue raised will have to be adjudicated only in the main original petition. Now the adjudication has already been made pursuant to the order passed by the IGRP. Therefore, neither the petitioner in the original petition nor the respondent therein who filed A.No.5008 of 2017 is in possession of the amount awarded. This amount lies in the deposit of the stock exchange. The stock exchange is only a statutory authority which is otherwise bound to carry out the directions of the Court. To put it differently, the said amount is kept by the stock exchange until further orders to be passed by the Court while dealing with the inter se dispute between the parties.

5.In such view of the matter, though the stock exchange is not a party, a direction is issued to the stock exchange to release a sum of Rs.5 lakhs in favour of the applicant in A. No.5008 of 2017 within a period of four weeks from the date of receipt of a copy of this order. This order is passed without prejudice to the contentions of the parties in the main original petition, of course, subject to the final order to be passed in the original petition.

6.In such view of the matter, interim stay granted in A.No.417 of 2017 is made absolute and the application is allowed. Consequently, A.No.5008 of 2017 stands closed.

7.In view of the order passed in A.Nos.417 and 5008 of 2017, no further order is required to be passed in A. No.418 of 2017 and accordingly, it is closed.

8.Post the original petition for final hearing in the second week of January, 2018.

Sd/-M.M.S.J

14.12.2017

//Certified to be a true copy//
Dated this the day of 2018
JJ 10/1/18 COURT OFFICER