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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **<u>O.M.P. 22/2016 and IA Nos. 6979/2016 & 15685/2016</u>**

DEEPAK KHANDELWAL ..... Petitioner
Through Mr. Vatsalya Vigya, Advocate

versus

SHREE JI FINVEST LTD. & ANR. ..... Respondents
Through Ms. Lalita Kohli, Adv. for R-1

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% 09.02.2017

1. The present petition has been filed by the petitioner under Section 34 of the Arbitration and Conciliation Act, 1996 assailing an award dated 17.03.2016 passed by the Appellate Arbitral Tribunal, National Stock Exchange of India Ltd., Jaipur.

2. The aforesaid appellate award was passed pursuant to an appeal filed by the respondent no. 1, Shree Ji Finvest Ltd. (‘SFL’), against an arbitral award dated 27.10.2015 delivered by Arbitral Tribunal of National Stock Exchange of India Ltd., Jaipur.

3. The Arbitral Tribunal, in its award dated 27.10.2015, held that the M/s Share Shoppe Holdings (India) Pvt. Ltd. (‘SSHIPL’) was not a constituent, sub-broker or client of sub-broker of SFL and therefore, the Tribunal had no jurisdiction to decide the claim and the counter-claim presented by the parties.

4. Ms Lalita Kohli, the learned counsel appearing on behalf of the SFL submits that this Court would have no jurisdiction to entertain the present petition as the disputes between SFL and SSHIPL, which are the subject matter of dispute before the Arbitral Tribunal at Jaipur, stem from an agreement dated 24.12.1995, which was entered into between the parties at Bombay. Further SSHIPL was carrying on its business in Jaipur. SFL had entered into an agreement with SSHIPL as it was proposing to set up a branch at Jaipur and Sikar for trading and SSHIPL had agreed to manage the trading on the capital market at Jaipur as a Constituent on Principal -Agent basis.

5. Learned counsel further submits that no part of cause of action had arisen within the National Capital Territory of Delhi as the Arbitral Tribunal as well as the Appellate Arbitral Tribunal are located in Jaipur and therefore, the present petition is without jurisdiction.

6. The submission made by Ms Kohli that this Court does not have jurisdiction to entertain this petition is merited. Merely because one of the main offices of the National Stock Exchange of India Ltd. is situated in Delhi would not vest this Court with jurisdiction to entertain the disputes as no part of the cause of action had arisen within the National Capital Territory of Delhi.

7. It is also seen that SSHIPL has been dissolved and its name has been struck off from the Register of Companies maintained by the Registrar of Companies.

8. It is thus difficult to understand as to how a petition can be maintained against a dissolved company.

9. Ms Kohli states that in terms of Section 248(6) of the Companies Act, 2013, proceedings against SSHIPL can continue. She further asserts that the Director and Managing Director of the company can also be held liable for the Liabilities of the company.

10. *Prima facie*, reliance placed by learned counsel for the SFL on the provisions of Section 248(6) are misplaced. The liability of the Director of a company which is mentioned in Section 248 of the Companies Act, 2013 is such liability which would have existed had the company not been dissolved. It is trite law that the Director or the Managing Director of a company would not be liable for the obligations of the company. In any event, the petitioner is not a party to the proceedings before the Arbitral Tribunal. It is also extremely doubtful whether the proceedings against a dissolved company are maintainable. However, these issues would be considered by the Arbitral Tribunal or the appropriate court if the arbitral proceedings against SSHIPL are continued.

11. In view of the foregoing, the present petition and pending applications are dismissed.

VIBHU BAKHRU, J

FEBRUARY 09, 2017
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