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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. 202 OF 2017
IN
CHAMBER SUMMONS (L) NO. 2221 OF 2016
IN
EXECUTION APPLICATION (L) NO. 1655 OF 2016
IN
FOREIGN AWARD DATED 25TH SEPTEMBER, 2014
WITH
NOTICE OF MOTION (L) NO. 136 OF 2018

Richmond Mercantile Ltd. FZC

.. Appellant

Vs.

Vinergy International Pvt. Ltd.

.. Respondent

Mr.Cherag Balsara with Aekaanth Nair i/by K Ashar and Company for
appellant.

Ms. Ridhi Nyati i/by Ashwin Shankar for respondent no.1.

CORAM: NARESH H. PATIL &
G. S. KULKARNI, JJ.

JUNE 06, 2018.

P.C.

1. Heard the learned counsel for the appellant and the learned
counsel for the respondent no.1. The Registry's note placed on record
shows that court notice is served on respondent no.1, who has been
represented. As regards respondent no.3, the tracking report shows as
“Receive Item At Office of Exhchange” and as regards respondent no.4, the
tracking report shows that item was delivered and service was effected
upon Rajesh Harlalka.

2. The learned counsel appearing for the appellant Mr. Balsara, submits that the appellant served respondent nos.2 and 3 privately. The learned counsel placed on record affidavits of service dated 6/3/2018 and 10/3/2018, which are taken on record. The learned counsel appearing for the appellant submits that respondent no.2 is a subsidiary of respondent no.1 and respondent no.3 is subsidiary of respondent no.2. The respondent no.4 who is a contesting party is already served, but none appears for him. The learned counsel for the appellant submits that the appeal be heard on merits. The learned counsel for the respondent no.1 does not accept the proposition in respect subsidiary status of the companies. The impugned order was passed by the learned Single Judge on 23/1/2017.

3. It is clarified that we are not expressing any opinion as regards subsidiary status of any of the companies. The said issue would be dealt with before the learned Single Judge.

4. We have perused the record. We have also perused the prayers in Chamber Summons (L) No. 2221 of 2016 which are principally against respondent nos.2 to 4. The learned Single Judge had recorded statement made in para 3 of the affidavit-in-reply of respondent no.1, which is

reproduced in para 1 of the impugned order.

5. In the facts and on considering the prayers made in the Chamber Summons, we are of the view that the Chamber Summons (L) No. 2221 of 2016 is required to be heard afresh on its own merits by the learned Single Judge after the contesting parties are duly served.

6. Without expressing any opinion on merits of the contentions of the contesting parties, we set aside para 7 of the impugned order and remand the matter back to the learned Single Judge. All contentions on merits are kept open for the parties to be raised before the learned Single Judge. The Chamber Summons (L) No. 2221 of 2016 be decided on its own merits without being influenced by the impugned order dated 23/1/2017, including the observations made in paras 3 to 6.

7. Appeal stands disposed of accordingly.

8. Notice of Motion (L) No. 136 of 2018 does not survive and is disposed of.

(G. S. KULKARNI, J.)

(NARESH H. PATIL, J.)