

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMM EXECUTION APPLICATION NO. 1447 OF 2018
AND
CHAMBER SUMMONS NO. 1058 OF 2018**

PV Thomas sole Proprietor of SR Industries	...Applicant
<i>Versus</i>	
G & T Oilfields Services Pvt Ltd	...Respondent

Mr Ajay Panicker, *with Amit Kakri, Padma Singh, I/b Ajay Law Associates, for the Applicant.*
Mr A Dasgupta, *I/b Jhangiani Narula, for the Respondent.*

CORAM: G.S. PATEL, J
DATED: 29th October 2018

PC:-

1. The Commercial Execution Application is dismissed as withdrawn since, the underlying Award has been set aside in separate challenge proceedings and an order taken there apparently by consent.

2. In that context, I trust the parties have had due regard to the recent decision of 10th October 2018 of the Supreme Court in

Radha Chemicals v Union of India,¹ which says in terms that a “court while deciding a Section 34 petition has no jurisdiction to remand the matter to the Arbitrator for a fresh decision.” The Supreme Court referenced and followed the previous decision in *Kinnari Mullick & Anr v Ghanshyam Das Damani*.² It is to be noted that in *Radha Chemicals*, the learned single Judge of the High Court directed that a point be decided afresh by a new arbitrator (since the whereabouts of the original arbitrator were unknown).

3. The Chamber Summons does not survive and is disposed of as infructuous.

4. Liberty to the parties to apply, including for a restoration of the Execution Application and the Chamber Summons if necessary.

(G. S. PATEL, J)

1 Civil Appeal No. 10386 of 2018.

2 (2018) 11 SCC 328.