



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2018

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(PD)(MD).Nos.1893 & 1894 of 2017

Hemang Resources Ltd.,
through it's Authorised Signatory S.Saravanan,
having registered office at,
Plot No.4, 6th Avenue Harrington Road,
Chetpet,
Chennai - 31.

... Petitioner/Petitioner/
Objector (in both Petitions)

Vs.

1. Vitol S.A,
(a Company incorporated
under the laws of Switzerland),
Having its registered office at
Boulevard du pont d'Arve 28,
CH 1205, Geneva, 1211,
Geneva 4, Switzerland,
Represented by
Anil Shamrao Jadhav

... Respondent/Respondent/
Petitioner/Award Holder (in both Petitions)

2. Asian Natural Resources (India) Limited,
(Formerly Bhatia International Limited),
a company incorporated under the Companies Act, 1956,
B.C.C.House, 8/5, Manoramangani,
Navaratan Bagh, Main Road,
Indore - 452 001(MP).

... Respondent/Respondent/
Respondent/Judgment Debtor (in both Petitions)

COMMON PRAYER : Civil Revision Petitions are filed under Article 227 of Constitution of India, to set aside the orders dated 23.01.2017 passed in unnumbered E.A.SR.No.5116 of 2016 and E.A.SR.No.142 of 2017 in E.A.No.159 of 2014 on the file of the Principal District Court, Thoothukudi and direct the learned Principal District Judge, Thoothukudi, to number the E.A.SR.Nos.5116 of 2016 and E.A.SR.No.142 of 2017 in E.A.No.159 of 2014.

(in both C.R.Ps.)

For Petitioner

: Mr.M.Deivanandam,

for Mr.T.Antony Arul Raj.

C O M M O N O R D E R

The first respondent had initiated Arbitration proceedings against the second respondent. The Arbitration proceedings concluded in favour of the first respondent. Those proceedings had taken place in Mumbai.

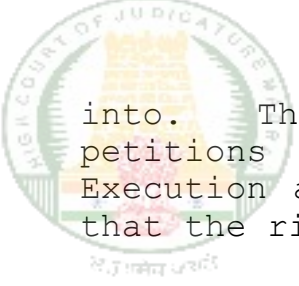
2. Before the Bombay High Court, execution proceedings were initiated. The Bombay High Court forwarded an order of precept to the learned Principal District Judge, Thoothukudi. Based on the same, the learned Principal District Judge issued an order of attachment in E.A.No.159 of 2014. To raise the same, E.A.Nos.4 of 2015, 5 of 2015, 19 of 2015 and 100 of 2015 were filed. But those Execution applications were dismissed as not maintainable by order 08.07.2015. Thereafter, the present Execution applications were once again filed before the learned Principal District Judge, Thoothukudi, for raising of attachments and for depositing of the auction proceeds. The learned Principal District Judge declined to number these Execution applications and returned them. The Revision petitioner purporting to comply with the returns re-presented the same. But once again the Execution applications were returned. Since the Revision petitioner was of the view that further re-submission of the returned Execution applications would be of no use, these Civil Revision petitions came to be filed.

3. Heard the learned counsel appearing for the petitioner.

4. As rightly pointed out by the learned counsel appearing for the petitioner, the Court below had dismissed the E.A.Nos.4 of 2015, 5 of 2015, 19 of 2015 and 100 of 2015 on 08.07.2015 only on the ground that there was no transfer of decree or transmission of the execution petition. The learned Principal District Judge, Tuticorin, took the view that when no execution petition was pending before the said Court, it was not in a position to pass an order raising attachments. Now certain subsequent developments had taken place. The learned counsel for the petitioner submits that the Execution petition has been transmitted from the Bombay High Court to the Principal District Court, Tuticorin, along with the award. Therefore, the dismissal of E.A.Nos.4 of 2015, 5 of 2015, 19 of 2015 and 100 of 2015 by order dated 08.07.2015 cannot come in the way of entertaining the Execution applications.

5. Finding force in the said submission of the learned counsel for the petitioner, these Civil Revision petitions stand allowed.

6. The learned Principal District Judge, Tuticorin, is directed to number E.A.SR.No.5116 of 2016 and E.A.SR.No.142 of 2017 in E.A.No.159 of 2014, issue notice to the respondents and dispose of the same in accordance with law. Since these Civil Revision petitions have been disposed of at the admission stage, it is made clear that the rights of the first respondent had not been gone



into. The only relief that is given in these Civil Revision petitions is to enable the Revision petitioner to re-submit the Execution applications and a direction to number the same. Beyond that the rights of the parties have not at all been adjudicated.

7. Registry is directed to return the original Execution applications filed along with the Civil Revision petitions so as to enable the Revision petitioner to re-submit the same. No costs.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Principal District Judge,
Thoothukudi.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

COMMON ORDER MADE IN
C.R.P. (PD) (MD) .Nos.1893 & 1894 of 2018
07.08.2018

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JM/KAK/SAR 3/28.08.2018/3P/4C