

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 03.01.2019
Pronounced on: 21.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

O.P.No.346 of 2013 and
A.No.7987 of 2015

M/s.India Infoline Limited,
IIFL Centre, Kamala City,
Senapati Bapat Marg,
Lower Parel,
Mumbai-400 013.

... Petitioner/Appellant/Respondent

-VS-

1. Mr.Rami Reddy Gayam,
POA, Siva Nagi Reddy Lanki Reddy,
House No.1-94/7, Street 1, Bhavani Nagar,
Nacharam, Hyderabad-500 076.

... Respondent/Respondent/Claimant

2. V.Sekar

3. N.S.Srinivasan

4. A.P.Sreedharan

(2 to 4 Arbitrators of the National Stock Exchange,
Having its Office at 8th Floor, Arihant Nitco Park,
No.90, Radhakrishnan Salai, Mylapore,
Chennai-600 004)

... Respondents/Arbitrators

Prayer: This Petition is filed under Section 34 of The Arbitration and Conciliation Act, 1996 to set aside the Award of the Arbitrators in F&O/C-0004/2012 dated 31.07.2012 as confirmed in Arbitration Appeal No.F&O/C-0004/2012_2 dated 11.02.2013 on the file of the National Stock Exchange and render justice.

For Petitioner : Mr.G.Suriya Narayanan
For R1 : Mr.P.Shreyas Reddy

ORDER

This Original Petition has been filed, seeking to set aside the Award of the Arbitrators in F&O/C-0004/2012 dated 31.07.2012 as confirmed in Arbitration Appeal No.F&O/C-0004/2012_2 dated 11.02.2013 on the file of the National Stock Exchange and render justice.

2. According to the Petitioner-Company, it is a Trading Member of National Stock Exchange (NSE) and Bombay Stock Exchange (BSE), having registered with the Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Rules, 1992 and holding Registration No.INB231097537 and Registration No.INB011097533 respectively and having a Clearing No.179 under BSE. The 1st Respondent had approached the petitioner, with a request to open the Trading and Demat Account with the intention to trade in Cash and Derivatives by signing the KYC to that effect and after due diligence, the petitioner had allowed the 1st respondent to open the account with the petitioner.

3. It was further submitted that the 1st respondent was a Software Engineer in USA with the Annual Income ranging between Rs.10 and 25 lakhs and the 1st respondent had traded till the 1st week of August, 2011 and not till 22.06.2011. There were Trades done in his account in the 2nd week of July, 2011

by one Prashanth Rao Boinapally, Relationship Manager of the petitioner without his approval. The 1st respondent, having permitted the said Prashanth Rao Boinapally to operate his account and trade in his account, for three months so as to compensate him for the loss, which is evident from the chat record of the 1st respondent with him, subsequently blamed the petitioner Company, when loss occasioned.

4. The petitioner also submitted that though the 1st respondent had lodged a complaint with the National Stock Exchange for investor grievance, on being satisfied that the petitioner Company had duly carried out the instructions of the 1st respondent, did not entertain the same and therefore, the 1st respondent had initiated arbitration proceedings on 21.03.2012 before the National Stock Exchange claiming Rs.33,23,441/- as refund and Rs.10,00,000/- towards damages. The 1st respondent had chats with them till 04.08.2011 and the said date would be taken for the purpose of record date and therefore, he is bound by the trades carried on till that date.

5. It was further stated by the Petitioner-Company that the 1st respondent, having admitted his accounts and having received the payments of Rs.4,79,904.17 as on 05.11.2011, cannot demand any amount from the petitioner-company as per the rules of the Stock Exchange and therefore, no

amount is payable by them to the 1st respondent, as the 1st respondent had allowed a private party to operate his account without the knowledge of the Petitioner-Company. However, the Arbitrators had arrived at a loss as Rs.17,94,359/- and fastened the liability on the Petitioner-Company, which stood confirmed in the Appeal also. Aggrieved by both the Awards, the Petitioner-Company is before this Court, inter alia contending that the Arbitrators have no jurisdiction to entertain any complaint, which had arisen on account of private treaty or arrangement and that the 1st respondent had received the payment made on 05.11.2011 without any protest, which amounts to acceptance of the payment under Section 63 of the Indian Contract Act and therefore, the Petitioner-Company is not liable to make any payment. Thus, it was pleaded that the Awards dated 31.07.2012 and 11.02.2013 passed by the Arbitrators are liable to be set aside on the sole ground of maintainability.

6. Per contra, the 1st Respondent has filed a counter, wherein it has been stated as follows:

i) this Original Petition is not maintainable in law, as the entire cause of action had arisen wholly in Hyderabad and the 1st respondent had opened his individual Trading Account for the purpose of trading with the petitioner on 18.01.2011, by furnishing required documents to them. Later on,

the petitioner-Company was transferred to another Branch of the Petitioner at Hyderabad;

ii) In the agreement entered into between the parties, it has been stated that “in matters where the Exchange is a party to the dispute, the Civil Courts at Mumbai shall have exclusive jurisdiction and in all other matters, proper courts within the area covered under the Regional Arbitration Centre shall have jurisdiction in respect of the arbitration proceedings falling under or conducted in that Regional Arbitration Centre”.

iii) As per the Circular dated 31.08.2010 of the National Stock Exchange of India Limited (NSEIL), which is binding on the petitioner and the 1st respondent herein, especially Clause 17, the application under Section 34 of the Arbitration and Conciliation Act, 1996 shall be filed in the Competent Court nearest to the Regional Arbitration Centre, where the Arbitral Award has been passed. As per the stipulations in the Rules, Byelaws / Regulations of the NSEIL at the time of instituting the Arbitration Claim on 30.03.2012, the Regional Centre of the NSEIL at Chennai covered the area of various States in South India, including the then composite State of Andhra Pradesh;

iv) It was stated that a Court does not derive its jurisdictional competence merely from the coincidence of a Regional Arbitration Centre,

being located in close proximity. As a matter of convenience, the NSEIL could have convened its Regional Centre in any of the places in South India other than Chennai and such incidental fact and venue of arbitration cannot be the sole consideration for vesting this Hon'ble Court with the jurisdiction to adjudge on the plea raised by the parties in regard to the Arbitral Awards;

v) Moreover, the permanent residence of the 1st respondent and the residence of his Power of Attorney Holder is also at Hyderabad. As per the NSEIL bye-laws, the location of the Constituent should be given importance in preferring an appeal under Section 34 of the Act. Therefore, the competent and proper Court to exercise jurisdiction over the subject matter of the instant Original Petition is the Principal Civil Court of the District of Hyderabad, T.S.;

vi) The petitioner-Company has not approached this Court with clean hands, as the 1st respondent had already filed an Appeal under Section 34 of the Act, 1996 before the City Civil Court (III ACJ) at Hyderabad in O.P.No.772 of 2013, challenging the Arbitral Award dated 11.02.2013 and the said factum has been suppressed in this petition. In the said O.P., the petitioner herein had filed I.A.No.414 of 2014 under Section 10 of CPC for stay of the proceedings in O.P.No.772 of 2013 and as such, it is clear that the dispute involved in this petition and in O.P., is one and the same. Thus, finally, it was stated that the

petitioner-company, having submitted itself to the jurisdiction of the Hyderabad Court and averred that the two Arbitral Awards dated 11.02.2013 involved the same issues, has deliberately filed the instant petition and therefore, this petition is liable to be dismissed *in limine* for want of jurisdiction.

7. Learned counsel for the petitioner-Company has submitted that once the 1st respondent had authorized the petitioner's representative to trade for three months to compensate the loss without intimation to the petitioner, no complaint can be made stating that trade has been unauthorizedly done in his account. He has further submitted that secondly, once the parties have submitted to a particular seat, then it is akin to an exclusive jurisdiction clause as to the courts exercising supervisory powers over the arbitration and in support of his submission, he has relied upon the judgment of the Hon'ble Supreme Court in the case of Indus Mobile Distribution Pvt. Ltd., vs. Datawind Innovations Pvt. Ltd., reported in (2017) 7 SCC 678, wherein it has been held as follows:

"20. A conspectus of all the aforesaid provisions shows that the moment the seat is designated, it is akin to an exclusive jurisdiction clause. On the facts of the present case, it is clear that the seat of arbitration is Mumbai and Clause 19 further makes it clear that jurisdiction exclusively vests in the Mumbai courts. Under the Law of Arbitration, unlike the Code of Civil Procedure which applies to suits filed in courts, a reference to "seat" is a concept by which a neutral venue can be chosen by the parties to an arbitration clause. The neutral venue may not

in the classical sense have jurisdiction - that is, no part of the cause of action may have arisen at the neutral venue and neither would any of the provisions of Section 16 to 21 of the CPC be attracted. In arbitration law however, as has been held above, the moment “seat” is determined, the fact that the seat is at Mumbai would vest Mumbai courts with exclusive jurisdiction for purposes of regulating arbitral proceedings arising out of the agreement between the parties.

21. It is well settled that where more than one court has jurisdiction, it is open for parties to exclude all other courts. For an exhaustive analysis of the case law, see [Swastik Gases Private Limited v. Indian Oil Corporation Limited](#), (2013) 9 SCC 32. This was followed in a recent judgment in [B.E. Simoes Von Staraburg Niedenthal and Another v. Chhattisgarh Investment Limited](#), (2015) 12 SCC 225. Having regard to the above, it is clear that Mumbai courts alone have jurisdiction to the exclusion of all other courts in the country, as the juridical seat of arbitration is at Mumbai. This being the case, the impugned judgment is set aside. The injunction confirmed by the impugned judgment will continue for a period of four weeks from the date of pronouncement of this judgment, so that the respondents may take necessary steps under [Section 9](#) in the Mumbai Court. Appeals are disposed of accordingly.”

8. Learned counsel for the petitioner has also referred to a judgment of the Hon'ble High Court of Gujarat at Ahmedabad in the case of [Unique Optical Fiber and Telecom Services Pvt. Ltd., vs. Telecommunication Consultancy India Limited](#), reported in [MANU/GJ/0206/2018](#) to contend that the term “subject-matter of the arbitration” should not be confused with “subject-matter of the suit” and therefore, for the purpose of neutrality, it is mandatory that the obligations to be performed under the contract were to be

performed. Thus, it was pleaded by the learned counsel for the petitioner that this Court has jurisdiction to try the present case in terms of the agreement and the Award are liable to be set aside.

9. Per contra, learned counsel appearing for the 1st respondent has strenuously argued by strongly placing reliance on the judgment of the Hon'ble High Court of Bombay in the case of Kantilal Chhaganlal Securities Pvt. Ltd., vs. Shilpa Pareet, reported in MANU/MH/1111/2013 to the effect that where the Exchange is not a party to the dispute between a trading member and a constituent, the Courts having jurisdiction over the seat of arbitration would have exclusive jurisdiction, as this would also subserve the object and intention of the regulation and in that context, the question of deciding the seat of arbitration would have relevance to the issue. The relevant portions of the judgment cited supra are extracted hereunder:

"9...The second part of Regulation 5.3A, again for the purposes of Bye-law 17, stipulates that in all other matters, the proper courts within the area covered under the respective Regional Arbitration Centre shall have jurisdiction in respect of the arbitration proceedings falling / conducted in that Regional Arbitration Centre.

11. Counsel appearing on behalf of the Appellant seeks to make a distinction between the first part of Bye-law 5.3A and the second part, on the ground that whereas the first part uses the expression "exclusive jurisdiction", the second part does not do so. We are not impressed with that submission because Regulation 5.3A begins with the expression that it is for the purposes of Bye-law 17 of Chapter 11. Bye-law 17 of Chapter 11

specifically speaks of an exclusive jurisdiction exercisable either by the courts in Mumbai or any other court. Hence, the second part of Regulation 5.3A must be given a natural and ordinary meaning. The intent of the subordinate legislation is that where the Exchange is a party to the dispute, exclusive jurisdiction will be of the courts at Mumbai. Where the exchange is not a party to the dispute, the exclusive jurisdiction would be of the courts within the area covered by the respective Regional Arbitration Centres. The submission of the Appellants would require the court to read the word "also" in the latter part of Regulation 5.3A and the expression "shall have jurisdiction" will in that case be altered to read "shall also have jurisdiction." On the other hand, the plain and the natural meaning of Regulation 5.3A when construed in the context of Bye-law 17 is that where the Exchange is a party to the dispute, exclusive jurisdiction would be of the civil courts in Mumbai whereas in a situation, such as in the present case, where the Exchange is not a party to the dispute between a trading member and a constituent, the Courts having jurisdiction over the seat of arbitration would have exclusive jurisdiction. This would also subserve the object and intention of the regulation. It may be noted here that when a trading member has to file an arbitration application against the constituent or vice-versa, it has to be at the Regional Arbitration Centre covering the State in which the constituent ordinarily resides. The import of the regulations and the Bye-laws is, therefore, to restrict jurisdiction in the interests of the constituent member to that court which would have jurisdiction over the place where the Regional Arbitration Centre is situated, depending on the residence of the constituent.

12. In the circumstances, though for the reasons which we have indicated, we have come to the conclusion that the learned Single Judge arrived at the correct conclusion. No case for interference in appeal is made out."

10. Learned counsel for the 1st respondent has referred to the following judgments of the Hon'ble Supreme Court in support of his contention

that the parties should submit to the jurisdiction of one Court to the exclusion of the other Court or courts, which will not hit by Section 28 of the Contract Act, 1872 nor can be said to be against public policy and that the suit can be instituted where the property is situated:

i) *Harshad Chiman Lal Modi vs. DLF Universal and others*,
reported in MANU/SC/0710/2005;

"20. It is, no doubt true, as submitted by Ms. Malhotra that where two or more courts have jurisdiction to entertain a suit, parties may by agreement submit to the jurisdiction of one court to the exclusion of the other court or courts. Such agreement is not hit by Section 28 of the Contract Act, 1872, nor such a contract can be said to be against public policy. It is legal, valid and enforceable.

24. The question, however, is whether Delhi Court has jurisdiction in the matter. If the answer to that question is in the affirmative, the contention of the plaintiff must be upheld that since Delhi Court has also jurisdiction to entertain the suit and parties by an agreement had submitted to the jurisdiction of that court, the case is covered by Section 20 of the Code and in view of the choice of forum, the plaintiff can be compelled to approach that court as per the agreement even if other court has jurisdiction. If, on the other hand, the contention of the defendant is accepted and it is held that the case is covered by Section 16 of the Code and the proviso to Section 16 has no application, nor Section 20 would apply as a residuary clause and Delhi Court has no jurisdiction in the matter, the order impugned in the present appeal cannot be said to be contrary to law. As we have already indicated, the suit relates to specific performance of an agreement of immovable property and for possession of plot. It is, therefore, covered by the main part of Section 16. Neither proviso to Section 16 would get attracted nor Section 20 (residuary provision) would apply and hence Delhi Court lacks inherent jurisdiction to entertain, deal with and decide the cause.

25. The High Court considered the submission of the plaintiff that Delhi Court had jurisdiction to entertain the suit but negatived it. The Court, after referring to various decisions cited at the Bar, concluded;

"From the aforesaid principles laid down by the Supreme Court it is abundantly clear that where the parties to a contract agreed to vest jurisdiction to a particular Court although cause of action has arisen within the jurisdiction of different Courts, including that particular Court, the same cannot be said to be void or to be against the public policy. It was also made clear in the said decision that if however a particular Court does not have any jurisdiction to deal with the matter and no part of cause of action has arisen within the jurisdiction of that Court, the parties by their consent and mutual agreement cannot vest jurisdiction in the said Court. Therefore, a clause vesting jurisdiction on a Court which otherwise does not have jurisdiction to decide the matter, would be void as being against the public policy."

i) *Emkay Global Financial Services Ltd., vs. Girdhar Sondhi*,

reported in MANU/SC/0875/2018;

"9. The effect of an exclusive jurisdiction clause was dealt with by this Court in several judgments, the most recent of which is the judgment contained in Indus Mobile Distribution Pvt. Ltd. (supra). In this case, the arbitration was to be conducted at Mumbai and was subject to the exclusive jurisdiction of courts of Mumbai only. After referring to the definition of "Court" contained in [Section 2\(1\)\(e\)](#) of the Act, and [Section 20](#) and [31\(4\)](#) of the Act, this Court referred to the judgment of five learned Judges in [Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc.](#), (2012) 9 SCC 552, in which, the concept of juridical seat which has been evolved by the courts in England, has now taken root in our jurisdiction. After referring to several judgments and a Law Commission Report, this Court held:

"19. A conspectus of all the aforesaid provisions shows that the moment the seat is designated, it is akin to an exclusive jurisdiction clause. On the facts of the

present case, it is clear that the seat of arbitration is Mumbai and Clause 19 further makes it clear that jurisdiction exclusively vests in the Mumbai courts. Under the Law of Arbitration, unlike the Code of Civil Procedure which applies to suits filed in courts, a reference to “seat” is a concept by which a neutral venue can be chosen by the parties to an arbitration clause. The neutral venue may not in the classical sense have jurisdiction – that is, no part of the cause of action may have arisen at the neutral venue and neither would any of the provisions of Sections 16 to 21 of CPC be attracted. In arbitration law however, as has been held above, the moment “seat” is determined, the fact that the seat is at Mumbai would vest Mumbai courts with exclusive jurisdiction for purposes of regulating arbitral proceedings arising out of the agreement between the parties.

20. It is well settled that where more than one court has jurisdiction, it is open for the parties to exclude all other courts. For an exhaustive analysis of the case law, see [Swastik Gases \(P\) Ltd. v. Indian Oil Corpn. Ltd.](#) [[Swastik Gases \(P\) Ltd. v. Indian Oil Corpn. Ltd.](#), (2013) 9 SCC 32 : (2013) 4 SCC (Civ) 157]. This was followed in a recent judgment in [B.E. Simoes Von Staraburg Niedenthal v. Chhattisgarh Investment Ltd.](#) [[B.E. Simoes Von Staraburg Niedenthal v. Chhattisgarh Investment Ltd.](#), (2015) 12 SCC 225 : (2016) 1 SCC (Civ) 427]. Having regard to the above, it is clear that Mumbai courts alone have jurisdiction to the exclusion of all other courts in the country, as the juridical seat of arbitration is at Mumbai. This being the case, the impugned judgment [[Datawind Innovations \(P\) Ltd. v. Indus Mobile Distribution \(P\) Ltd.](#), 2016 SCC OnLine Del 3744] is set aside. The injunction confirmed by the impugned judgment will continue for a period of four weeks from the date of pronouncement of this judgment, so that the respondents may take necessary steps under [Section 9](#) in the Mumbai Court. The appeals are disposed of accordingly.”

10. Following this judgment, it is clear that once courts in Mumbai have exclusive jurisdiction thanks to the agreement dated 03.07.2008, read with the National Stock Exchange bye-laws, it is clear that it is the Mumbai courts and the Mumbai courts alone, before which a [Section 34](#) application can be filed. The arbitration that was conducted at Delhi was only at a convenient venue earmarked by the National Stock Exchange, which is evident on a reading of bye-law 4(a)(iv) read with (xiv) contained in Chapter XI.

Contending that the Court within the jurisdiction of which the dispute resolution, that is, arbitration was located, would have the jurisdiction and in other words, the Court where the subject matter of the suit is situated would have jurisdiction, the learned counsel for the 1st respondent put forth his contention, stating that after formation of the separate State Telengana, Hyderabad alone has the jurisdiction and the petition filed before this Court is not maintainable and is liable to be dismissed. To emphasize his argument, he has also contended that where the Exchange is not a party to the dispute between a trading member and a Constituent, the Courts having jurisdiction over the seat of arbitration would have exclusive jurisdiction.

11. Heard the learned counsel on either side and perused the material documents available on record.

12. A conspectus of the facts obtaining in this case reveals that before deciding the issue as to whether the Arbitral Awards are liable to be set

aside or not, firstly, it is prerogative on the part of this Court to decide whether this Court has got the jurisdiction to hear the matter. It is seen that there is an agreement between the parties, in which, it has been stipulated that the seat of arbitration was at Madras. When the Arbitration proceedings commenced, there were Arbitration Centres at Mumbai, Calcutta, Delhi and Madras and according to the 1st respondent, after formation of a Centre at Hyderabad, the Court at Hyderabad alone has jurisdiction to try the case, as the entire cause of action had arisen at Hyderabad. It was vehemently contended by the learned counsel for the 1st respondent that though the Arbitration Centre at Madras was the seat of Arbitration, which has rendered Awards, after the introduction of the Arbitration Centre at Hyderabad, the 'seat' automatically loses its significance and the said Centre can, at the best, be called as "venue" where the Arbitrators met.

13. To reciprocate the above contention, it was replied by the learned counsel for the petitioner that though the entire cause of action arose only at Hyderabad, there should not be any confusion over the term "subject-matter of the arbitration" with that of "subject-matter of the suit", as Section 2(1)(e) of the Arbitration Act refers to a Court, which would essentially be a Court of the seat of the arbitration process.

14. If there is any dispute involving National Stock Exchange, it is no doubt true that the Centre at Mumbai alone has got jurisdiction, whenever dispute arose. When there is a dispute between the parties in terms of Section 20 of the Arbitration Act, then the place of arbitration agreed between the parties will prevail. In case a part of cause of action, including the residence of any of the parties is within the jurisdiction of Chennai, this Court has the supervisory power over the Arbitration Centre that had decided the issue at Chennai and the matter can, by and large, be tried by this Court even after constitution of a Centre at Hyderabad.

15. Admittedly, in the present case on hand, except the fact that the arbitration proceedings were initially conducted at Chennai, no iota of evidence has been adduced on the part of the petitioner to establish that any cause of action, much less a part of cause of action had occurred within the jurisdiction of this Court. Therefore, I find much force in the contention raised by the learned counsel for the 1st respondent that after formation of the new State, the Arbitration Centre at Madras could only be construed as “venue”, where the Arbitrators conducted the Arbitration proceedings and passed Awards for the convenience of the parties, prior to constitution of a Regional Centre at Hyderabad. To put it in other words and to be more precise, it is explicitly clear that on and from the date of formation of the separate State, namely,

Telengana, the place, in which the Arbitration proceedings were held by the Arbitrators can only be called as “venue” and it will no longer be called as “seat” for the purpose of jurisdictional point of view alone.

16. Learned counsel for the 1st respondent drew the attention of this Court to Clause No.17 of the Circular dated 31.09.2010, issued by the National Stock Exchange of India Limited, Arbitration Department, which stipulates as under:

“17. Appeal u/s 34 in the Court of Law-

A party aggrieved by the appellate arbitral award may file an application to the Court of competent jurisdiction in accordance with Section 34 of the Arbitration and Conciliation Act, 1996. The application under Section 34 of the said Act shall be filed in the competent Court nearest to the Regional Arbitration Centre where the appellate arbitral award has been passed.”

Thus, according to him, the Hyderabad Court alone has got jurisdiction. When this Court posed a question to the learned counsel for the 1st respondent that in case this Court accepts the contention of the 1st respondent that will the Court at Hyderabad, which is trying the issue would lose its significance after formation of a Centre at Telengana, the answer was in affirmative, stating that the bye-law will prevail over the circular and the regulations will prevail over the bye-law.

17. A glance at Regulation 5.3A of the Byelaws of the Exchange, referred to by the petitioner, which deals with the jurisdiction of Courts unfolds the fact that the proper courts within the area covered under the respective Regional Arbitration Centre shall have the jurisdiction in respect of the arbitration proceedings falling/conducted in that Regional Arbitration Centre. To put it precisely, say for example, after constitution of separate Tribunals, such as the Central Administrative Tribunal (CAT), National Company Law Tribunal (NCLT) etc., all matters pending in High Courts were transferred to the respective Tribunals, as the jurisdiction of this Court was taken away to try such matters falling under the purview of such Tribunals.

18. It is pertinent to mention here that in case there are no other Arbitration Centres, except the four mentioned *supra*, certainly this Court will have jurisdiction to entertain the petition and that is not the case here. After introduction of a Centre at Hyderabad, the matter will have to necessarily be transferred to the Court having jurisdiction at Hyderabad and no High Court has power to transfer the case from its file to another High Court, as the Apex Court has to do such exercise. It would be different in case there are two Arbitration Centres situated in a State, where more than one Bench is available. To give an example, in case there are two Arbitration Centres one situated at Madras and another at Madurai, out of which, though Madurai has got jurisdiction, the

Arbitration proceedings were held at Madras and in that case, there is no impediment to try a petition filed under Section 34 of the Act by Madras High Court and certainly, this Court is empowered to transfer the case from Madurai Bench of Madras High Court to Madras High Court or vice-versa, but not one State to another State.

19. Moreover, in the pleadings put forth by the petitioner, there is no whisper about the pendency of Appeal filed by the 1st respondent before the City Civil Court (III ACJ) at Hyderabad in O.P.No.772 of 2013, though the petitioner had already entered appearance therein and filed I.A.No.414 of 2014 for stay of the proceedings. The minimum requirement expected from the litigants is that they should approach the Court with clean hands and in this regard, the Hon'ble Supreme Court in the case of S.P.Chengalvaraya Naidu vs. Jagannath, reported in (1994) 1 SCC 1, has held as under:

"The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the Court is being abused. Property grabbers, tax evaders, Bank loan dodgers, and other unscrupulous persons from all walks of life find the court process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person,

S. VAIDYANATHAN,J.

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whose case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation.”

20. In view of what is observed and discussed hereinabove, this Court has no other option, but to conclude that the preliminary objection raised by the 1st respondent on the jurisdictional point of view, stating that the Court at Hyderabad alone has got jurisdiction, holds good and appears to be sound. Hence, this Court is of the view that the Original Petition has no legs to stand and is liable to be dismissed.

21. Accordingly, this Original Petition is dismissed on the ground of maintainability and it is open to the petitioner-Company to work out its remedy before the appropriate forum in accordance with law. No costs. Consequently, connected Application is closed.

21.03.2019

Index: Yes / No

Internet : Yes / No

Speaking Order/Non-speaking Order

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PRE-DELIVERY ORDER IN
O.P.No.346 of 2013