

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.09.2019

CORAM

THE HONOURABLE Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

O.P.No.714 of 2013

Kotak Securities Ltd.,
Rep. by Mr.Ashish Garia
having Regd. Office at
Bakhtwar, 1st Floor,
No.229, Nariman Point,
Mumbai - 4200 021.

... Petitioner

Vs.

1.Narottam D Mundra
C/o.Shree Trading Corporation,
No.151, New No.188, Govindappa Naicken Street,
Sowcarpet, Chennai - 600 079.

2.M.V.Badrinath
Sole Arbitrator,
C/o.National Stock Exchange of India Ltd.,
2nd Floor, Ispahani Centre,
No.123-124, Nungambakkam High Road,
Nungambakkam, Chennai 600034.

3.National Stock Exchange of India Ltd.,
2nd Floor, Ispahani Centre,
No.123-124, Nungambakkam High Road,
Nungambakkam, Chennai 600034.

... Respondents

Prayer:- Original Petition is filed under Section 34 of Arbitration and Conciliation Act, 1996 to set aside the Arbitral Award dated 16.01.2009 passed by the 2nd

Respondent in A.M.No.F&O/C-0252/2008; Directing the first respondent to pay the Petitioner to a sum of Rs.2,26,939.83 along with interest as claimed by the petitioner and directing the 3rd Respondent to return to the Petitioner the Term Deposit Receipt bearing No.09585190009137 dated 29.01.2009 for a sum of Rs.4,55,000/- issued by Kotak Mahindra Bank, Nariman Point, Mumbai along with the accumulated interest which is in the custody of the 3rd respondent along with an intimation to the Bank that the said term deposit receipt may be encashed by the Petitioner.

For Petitioner : Mr.A.R.Karunakaran

For Respondents : Mr.K.V.Karthik Subramanian for R-1

ORDER

The learned counsel for the Petitioner submits that there is an exclusive jurisdiction clause in the Bye-laws of the National Stock Exchange whereby the Courts in Mumbai will have exclusive jurisdiction in respect of Arbitration conducted under the said Bye-law. Consequently, he submits that the petition and connected papers along with the original award should be returned to the learned counsel for the Petitioner so as to enable the re-presentation thereof before the appropriate Court in Mumbai. In this regard, he relied upon the judgment of the Hon'ble Supreme Court in **EMKAY GLOBAL FINANCIAL SERVICES**

LIMITED Vs. GIRIDHAR SONDHI, (2018) 9 SCC 49, wherein at paragraph 9, the Hon'ble Supreme Court interpreted the same Bye-law and held that in light thereof the Section 34 Petition should be filed only before the appropriate Court in Mumbai.

2. In view of the submissions made and the judgment reported in (2018) 9 SCC 49, the Petition and connected papers along with the original award are liable to be returned to the learned counsel for the Petitioner for re-presentation before the appropriate Court in Mumbai.

3. This Petition stands dismissed as withdrawn in view of the above reasons. Consequently, the Registry is directed to return the petition and connected papers along with the original award to the learned counsel for the Petitioner for re-presentation before the appropriate Court in Mumbai.

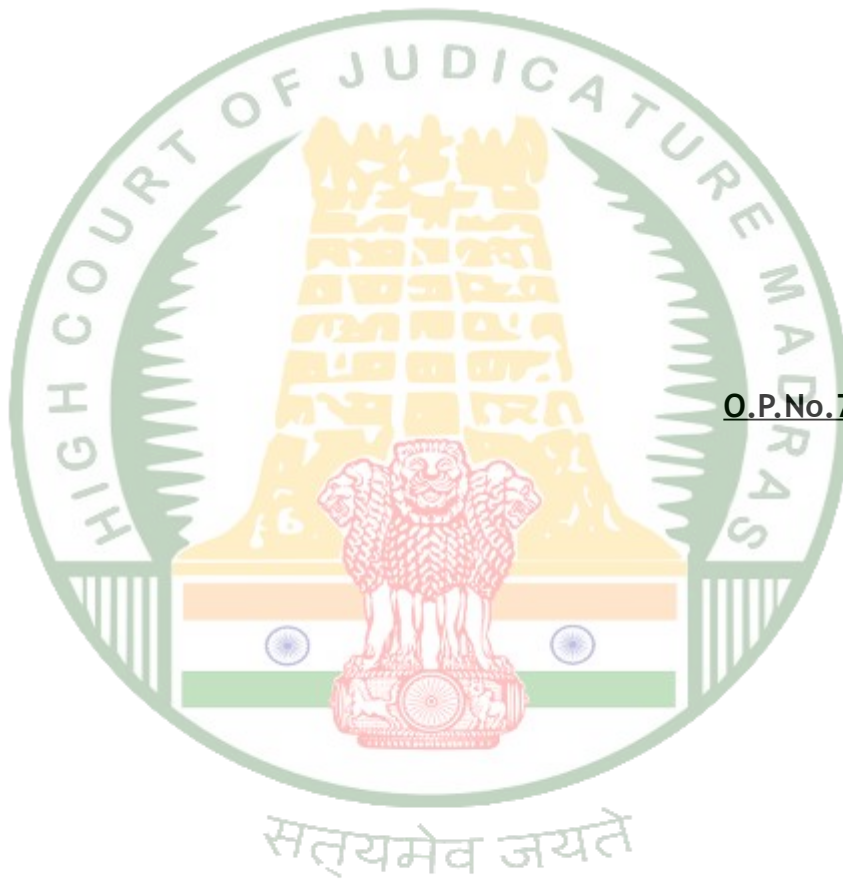
26.09.2019

Speaking/Non Speaking order
Index: Yes/No
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SENTHILKUMAR RAMAMOORTHY, J.
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