THE HON'BLE Dr.JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2676 OF 2019

ORDER:

This revision under Article 227 of the Constitution of India, is filed by the revision petitioner/plaintiff, aggrieved by the docket order dated 14.10.2019 passed in OS SR No.21983 of 2019 by the learned Chief Judge, City Civil Courts, at Hyderabad, wherein the said suit was ordered to be returned.

2) Heard the learned counsel for revision petitioner and perused the record.

3) Learned counsel for the revision petitioner/plaintiff would contend that the subject matter of the suit transaction is not commercial in nature. The suit claim is more than Rs.1 Crore, however, the Court below erred in observing that it falls within the ambit of specified value as provided under Section 2(1)(i) read with Section 12 of the Commercial Courts Act, 2015 (for short "the Act"). The Court below erroneously observed that the subject matter of the suit is a commercial dispute arising on the basis of a commercial transaction. It is further contended that a bill of exchange was endorsed in favour of the revision petitioner pursuant to the commercial transaction. The subject bill of exchange ought not have been considered as a commercial transaction and it is not required to be adjudicated by a commercial Court. The subject dispute which relates to payment of admitted liability, requires to be adjudicated only by a

competent Civil Court. In support of his contention, learned counsel for the revision petitioner relied upon the decisions reported in *Jindal Stainless Limited vs. ICICI Banking Corporation Limited and others*[1], *V.K.Enterprises and another vs. Shiva Steels*[2] and *State Bank of Hyderabad vs. Rabo Bank*[3] and ultimately prayed to set aside the impugned docket order dated 14.10.2019 and direct the Court below to entertain the subject suit, on being resubmitted.

4) Admittedly, the subject suit is filed for recovery of money due i.e, USD 7,337,504.49 (US Dollars Seven Million Three Hundred and Thirty Seven Thousand Five Hundred and Four Dollars Forty-Nine Cents only) equivalent to INR.52,30,17,320.27 (Indian Rupees Fifty Two Crore Thirty Lakh Seventeen Thousand Three Hundred and Twenty Rupees Twenty Seven Paisa only). The revision petitioner/plaintiff is a Singapore-based multinational banking and financial services company. The defendant-company carries on the business of manufacturing of basic Iron and Steel. During the course of commercial transactions in between the parties to the litigation, the defendant allegedly fallen due the aforesaid amount to the plaintiff. Since the suit claim is more than Rs.1 Crore, it falls within the ambit of specified value as provided under Section 2(1)(i) r/w Section 12 of the Act.

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[1] ILR (2004) II Delhi 262
[2] (2010) 9 Supreme Court Cases 256
[3] (2015) 10 Supreme Court Cases 521

5) It is apt and appropriate to extract Section 2(1) and Section 12 of the Act. Section 2(1) of the Act, reads as follows:

> "Section 2 - Definitions
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> (1) In this Act, unless the context otherwise requires,--
>
> (a) xx xx ...
>
> (b) xx xx ...
>
> (c) "commercial dispute" means a dispute arising out of--
>
> (i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;
>
> (ii) xx xx ...
> to
> (xxii) xx xx ...
>
> (e) xx xx...
>
> (f) xx xx...
>
> (g) xx xx...
>
> (h) xx xx...
>
> (i) "Specified Value", in relation to a commercial dispute, shall mean the value of the subject-matter in respect of a suit as determined in accordance with section 12 which shall not be less than one crore rupees [amended by Act 4 of 2016 w.e.f.31.12.2015] or such higher value, as may be notified by the Central Government.

Section 12 of the Act, reads as follows:

> "Section 12 - Determination of Specified Value--
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> (1) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:--
>
> (a) where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;
>
> (b) where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining such Specified Value;
>
> (c) where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the immovable property, as on the date of filing of the suit, appeal or application, as the case may be,

> shall be taken into account for determining Specified Value; and
>
> (d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value;
>
> (2) The aggregate value of the claim and counterclaim, if any as set out in the statement of claim and the counterclaim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.
>
> (3) No appeal or civil revision application under Section 115 of the Code of Civil Procedure, 1908 (5 of 1908), as the case may be, shall lie from an order of a Commercial Division or Commercial Court finding that it has jurisdiction to hear a commercial dispute under this Act."

6) As seen from the record, the plaint averments reveal that there is a commercial transaction in between the revision petitioner/plaintiff and the respondent/defendant. In the impugned docket order dated 14.10.2019, the Court below observed that nowhere it is mentioned in the Commercial Courts Act that the suits which are summary in nature cannot be tried by the Commercial Court. The suit transaction is covered under Section 2(1)(c)(i) of the Act. The submissions made on behalf of the petitioner that a bill of exchange was endorsed in favour of the revision petitioner pursuant to the commercial transaction, so the bill of exchange ought not have been considered as a commercial transaction, to be adjudicated by the commercial Court, being a negotiable instrument, which is an acknowledgment and admitted liability and it is required to be entertained by the Civil Court, is unsustainable. Since at this stage, the Court cannot split the business transaction as contended, the whole transaction is required to be taken into

consideration and the dispute arose therefrom is required to be adjudicated.

7) The issues raised and answered in the decisions relied upon by the learned counsel for revision petitioner, are quite different to the facts of the case on hand and those issues do not relate to the endorsement of bill of exchange and the proceedings carried thereafter. Hence, the aforesaid decisions are distinguishable to the facts of the case on hand.

8) There is alleged failure on the part of the respondent/ defendant to pay the amounts fallen due in the course of commercial transaction. Therefore, the Court below is justified in passing the impugned docket order. There is nothing to take a different view. No perversity or illegality is found in the order under challenge. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

9) Accordingly, this Civil Revision Petition is dismissed. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

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Dr. SHAMEEM AKTHER, J

Date: 10th December, 2019
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