

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ARBA No. 63 of 2019

1. M/s Himalaya Communication Limited 70/A-19, Rama Road Industrial Area, New Delhi 110015, District : New Delhi, Delhi

---- Appellant

Versus

1. The General Manager, South East Central Railway, Ground Floor, New G.M. Building Bilaspur (Chhattisgarh) 495004
2. The Principal Chief Material Manager, South East Central Railway, Ground Floor, New G.M. Building, Bilaspur, Chhattisgarh-495004

---- Respondents

For Appellant	:	Mr. Yadunandan Chandra, Advocate
For Respondents	:	Ms. Anjali S. Chouhan, Adv. on behalf of Mr. H.S. Ahluwalia, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06.01.2020

1. The counsel for the appellant prays for removing the default during the course of the day.
2. Prayer is allowed. Let necessary amendments be carried-out during the course of the day itself.
3. The challenge in the present Arbitration Appeal is to the order dated 23.09.2019 passed by the District Judge, Bilaspur in MJC Civil/217/2019.
4. That the appellant had moved an application for arbitration before the District and Sessions Judge- Bilaspur along with an application under Section 9 of the Arbitration and Conciliation Act, 1996. The said application has been held to be not maintainable and the application was ordered to be returned-back to the appellant for filing it before the Commercial Court, Raipur.

5. The grievance of the appellant seems to be the returning-back of suit by the learned District Judge. According to the counsel for the appellant, the learned District Judge should instead have transferred the case to the Commercial Court instead of returning it back. The counsel for the appellant referred to sub-section 3 of Section 15 of the Commercial Courts Act, 2015 which deals with transferring of pending cases.
6. This Court is of the opinion that the provisions of Section 15 would be applicable to only those proceedings, which were already pending consideration before the concerned Court on the date when the Commercial Courts Act, 2015 was enacted. Any subsequent application filed before the District Judge or the Civil Court need not be transferred as the Court has power to hold that it does not have jurisdiction in the light of the jurisdiction being conferred or being vested upon the Commercial Courts constituted under the Commercial Courts Act, 2015.
7. The learned District Judge-Bilaspur in the instant case taking into consideration the amount of money involved in the case and also taking note of the fact that the dispute arises out of a commercial contract between the appellant and the respondents has held that the application would not be maintainable before the District Judge and the same has to go before the learned Commercial Court constituted at Raipur under the Commercial Courts Act, 2015.
8. Given the aforesaid facts and circumstances of the case and also on perusal of finding given by the learned District Judge, this Court does

not find any illegality /error committed on the part of the learned District Judge in passing the impugned order dated 23.09.2019.

9. The appeal, accordingly stands rejected. Subject to the appellant furnishing a photocopy of the impugned order, the appellant would be entitled for the return of the original certified copy.

Sd/-
(P. Sam Koshy)
Judge