IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2020

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

O.P.No.298 of 2014

R.Sudharsan .. Petitioner

-Vs.-

1. M/s.Kotak Securities Limited,
   Bhakthawar, 1st Floor,
   229, Nariman point, Mumbai 400 021.
   Correspondence Address: Nirlon House,
   5th Floor, Dr.Annie Besant Road,
   Near Passport office, Worli,
   Mumbai 400 025.

2. Thiru.S.Subramaniam, B.A., B.L.,
   Civil Judge, Senior Division, Retd
   National Stock Exchange of India Ltd,
   Regional Arbitration Centre,
   Chennai .. Respondents

Original Petition under Section 34 of the Arbitration and Conciliation Act, 1996 praying to set aside the award passed by the learned Arbitrator dated 04.05.2007 in respect of the disputes between the petitioner and the respondent as set out in this petition.

For petitioner ... Mr.V.P.Sengottuvel
For Respondents ... Mr.Karunakaran

O R D E R

The above petition under Section 34 of the Arbitration and Conciliation Act has been filed challenging the award of the Arbitral

Tribunal of the National Stock Exchange dated 04.05.2007, in and by which, the petitioner, who is the respondent before the Arbitral Tribunal, has been directed to pay a sum of Rs.2,48,968.01 together with interest @ 18% p.a. from the date of award till the date of realisation to the first respondent herein.

2. When the mater came up for hearing, an objection was raised by the first respondent/claimant stating that this Court has no jurisdiction to entertain the above petition in the light of the Clause 26 of Member-Client Agreement entered into between the petitioner and the respondent and also in the light of the judgement of the Hon'ble Supreme Court reported in **(2018) 9 SCC 49 [Emkay Global Financial Services Ltd-vs-Girdhar Sondhi].**

3. A perusal of the said clause would clearly indicate that the parties have agreed as follows:-

> "**26.Jurisdiction:** All trades, transactions and contracts are subject to the Rules and Regulations of the respective Exchange(s) on which the trades have been executed and the parties to such trade shall be deemed to have submitted to the jurisdiction of the courts in Mumbai for the purpose of giving effect to the provisions of the Rules and Regulations of the Exchange(s).

4. Coupled with this the judgment of the Hon'ble Supreme Court where the matter in question are similar to the facts of the present case, the learned Judge has observed as follows:-

> "9. Following the 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 sub-clause (xiv) contained in Chapter XI."

5. In the light of the above, it is therefore clear that this Court does not have the jurisdiction to entertain the above petition. Consequently, the original award shall be returned to the petitioner for presentation before the competent Court which has jurisdiction to deal with the issue. The Registry is directed to hand over the original award to the learned counsel for the petitioner, after getting necessary endorsement in the case bundle.

P.T.ASHA.J

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6. With the above observations, this Original Petition is disposed of. No costs.

24.01.2020

Internet: Yes/No
Index:Yes/No
Speaking/Non-Speaking

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O.P.No.298 of 2014