

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.205 OF 2021

SHIVAM VILLA PRIVATE
LIMITED., REP. BY ITS
DIRECTOR, SUMIT SINGLA

... Petitioner.

VS

GAJANAN PADIYAR AND ANR.

... Respondents.

Mr. Yogesh V. Nadkarni and Mr. Sanket Datta Kamat, Advocates for the
Petitioner.

Mr. Rui Gomes Pereira, Advocate for the Respondents.

Coram: M.S. SONAK, J.

Date: 23rd June, 2021

P.C.:

Heard Mr. Kamat for the Petitioner and Mr. Pereira for the
Respondents.

2. The main grievance of the Petitioner is that the Commercial Court
at Quepem is refusing to register Petitioner's application dated
22.03.2021 filed under section 9 of the Arbitration and Conciliation Act,
1996 and allotted Presentation No.3/2021 on the ground that there is no
provision made in the CIS Case Type Master 3.2 Version as to the type of
the case under which such applications can be registered.

3. Accordingly, a report was called from the Principal District &
Sessions Judge, South Goa at Margao. A report dated 16.06.2021 has
today been placed on record.

4. The report explains the difficulty in registration of the Petitioner's
application on account of the absence of the case type i.e. Arbitration

Application (Commercial) in CIS Case Type Master 3.2 Version, for Civil and Criminal Courts at Margao, Vasco and Quepem. Report also states that this issue has been taken up by the Principal District & Sessions Judge with the Central Project Coordinator (CPC), e-Courts Project, vide e-mail communications dated 13.08.2020, 16.01.2021 and 09.06.2021. These communications are enclosed along with the report requesting the CPC to create case type i.e. Arbitration Application (Commercial) in CIS Case Type Master 3.2 Version for Civil and Criminal Courts at Margao, Vasco and Quepem for registering applications under section 9 and section 34 of the Arbitration and Conciliation Act, 1996.

5. According to me, though the difficulty expressed in the report may be genuine, such difficulty, cannot come in the way of the parties instituting application under section 9 and section 34 of the Arbitration and Conciliation Act. Even the learned Counsel for the Respondent complains that application under section 34 of the Arbitration and Conciliation Act is not being accepted or registered for the same reason. The learned Counsel for the parties point out that at some places such applications are being registered, possibly as Arbitration Suits for which provision is made in the CIS Case Type Master 3.2 Version.

6. Although, the Arbitration Applications under section 9 and section 34 of the Arbitration and Conciliation Act may not be suits, some provision will have to be made for registration of such cases. Therefore, pending the creation of the necessary case type by the CPC, directions are hereby issued to the Civil Courts in the State of Goa to register applications under section 9 and section 34 of the Arbitration and

Conciliation Act, 1996 under the case type “Arbitration Suit” in the CIS Case Type Master 3.2 Version as an interim measure. In addition, the Civil Courts, to maintain registers in the physical form, in which these type of applications must be registered so that once the proper case type is created, transition is easily achieved. These directions are issued because pending the creation of a correct case type or a proper case type, registration of application under section 9 or section 34 of the Arbitration and Conciliation Act can neither be refused nor be delayed. The statutory rights of the parties cannot be affected on account of such technical or logistical issues.

7. The Principal District Judges as also the Registrar (Judicial) to pursue the matter with the CPC so that the necessary case type is created at the earliest.

8. The Commercial Court at Quepem is now directed to register the Petitioner's application as well as the Respondents' application under section 9 and section 34 of the Arbitration and Conciliation Act as Arbitration Suits. The Commercial Court at Quepem to also maintain a physical register, in which these matters or for that matter, similar matters should be registered pending the creation of the proper case type by the CPC.

9. With the aforesaid directions, this petition is disposed of.

10. Copy of this order is to be sent to the two Principal District Judges, who shall circulate the same to the Commercial Courts in the State of Goa.

M.S. SONAK, J.

jfd/-