

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.02.2021

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

O.P.No.216 of 2016

A.V.Vijayakumar
Deepa Clinic
Thiruvilwamala
Thrissur District – 680 588
Kerala
PAN AAVPV4778K

... Petitioner

vs.

1. The Director
M/s. Sharekhan Limited
Plot No.1012, Devidayal Compound
Next to Crompton & Greaves Ltd.
Near Kanjurmarg, Railway Station
Kanjur Village Road, Kanjurmarg (East)
Mumbai – 400 042

2. Mr.Paul V.Das (Presiding Arbitrator)

3. Mr.A.V.Haridasan (Arbitrator)

4. Mr.K.K.Balu (Arbitrator)

Respondents 2 to 4, Panel of Appellate Arbitrators
National Stock Exchange Limited
8th Floor, Arihant Nitco Park
90, Dr.Radhakrishnan Salai
Mylapore, Chennai – 600 004

... Respondents

Petition filed under Section 34 of Arbitration and Conciliation Act, 1996 to set aside the award of the Panel of Appellate Arbitrators Appeal Arbitration Matter (A.M) No.CM/C-0001/2015 dated 03-11-2015 to the extent the said award denies 50% value of lost shares of the petitioner and cost of the proceedings throughout and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

For Petitioners : Mr.Hari Radhakrishnan

For Respondents : Ms.Meera Gnanasekar for R1

ORDER

Captioned 'Original Petition' ('OP' for the sake of brevity) is an application under Section 34 of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)', which shall hereinafter be referred to as 'A and C Act' for the sake of brevity. To be noted, in terms of short forms OP in plural shall be referred to as 'OPs'.

2. A question regarding territorial jurisdiction arises in captioned OP.

3. Owing to territorial jurisdiction issue, in terms of factual setting, it will suffice to say that the lis is between a depository participant and

client qua NSE. To be noted, NSE and other short forms / abbreviations used in previous proceedings made in the earlier listings (extracted and reproduced elsewhere infra in this order) shall continue to be used in this order for the sake of convenience and clarity.

4. This Court having set out bare minimum facts, which is sententious and terse, but sufficient for the purposes of this order, deems it appropriate to mention that essential facts and those aspects of the matter imperative for appreciating the territorial jurisdiction controversy in captioned OP have been captured in earlier proceedings dated 16.09.2020 and 25.01.2021 listings. Though the proceedings made in these two listings will suffice, as these proceedings refer to earlier proceedings, this Court deems it appropriate to extract and reproduce proceedings of this Court in listings on 23.07.2020, 24.08.2020, 16.09.2020, 22.12.2020, 25.01.2020 and 01.02.2021, which read as follows:

'Proceedings dated 23.07.2020:

Mr.Hari Radhakrishnan, counsel on record for petitioner and Ms.G.Mahar Amutha Surya, learned counsel on record for contesting first respondent are before me in this web-hearing on a video-conferencing platform.

2.Both learned counsel seek re-scheduling of the matter.

At request, list under the same caption on 24.08.2020.'

'Proceedings dated 24.08.2020:

Read this in conjunction with and in continuation of earlier proceedings dated 23.07.2020, same set of learned counsel are before me in this web-hearing/virtual hearing on a video-conferencing platform today also.

2.Mr.Hari Radhakrishnan, learned counsel on record for petitioner is ready. Ms.G.Mahar Amutha Surya, learned counsel seeks time to file a compilation of judgements on jurisdiction issue.

3. However, both sides agree and consent that main OP can be taken up for final hearing in the next listing.

List under the same caption on 16.09.2020.'

'Proceedings dated 16.09.2020:

Read this in conjunction with and in continuation of earlier proceedings dated 24.08.2020.

2. Mr.Hari Radhakrishnan, learned counsel on record for sole petitioner and Ms.Meera Gnanasekar, learned counsel on record for contesting first respondent are before me in this web hearing on a video conferencing platform today.

3. Adverting to earlier proceedings dated 24.08.2020, both learned counsel reiterated their consent to have the captioned OP taken up for final disposal, but an interesting scenario unfurls.

4. Subject matter is a 'National Stock Exchange of India

Limited' ('NSE' for brevity) arbitration and the impugned arbitral award made by the 'Appellate Arbitral Tribunal' ('AAT' for brevity) is dated 03.11.2015. To be noted, NSE by laws has a three tiered arbitration clause.

5. What is of significance is learned counsel for contesting first respondent submits that the impugned award made by AAT has been challenged by the contesting first respondent in the Bombay High Court vide Arbitration Petition No.353 of 2016. It comes to light that this petition has been presented at Bombay High Court on 19.12.2015 and an interim order qua stay of execution of impugned award has also been granted by Hon'ble High Court on 04.05.2016. On the contrary, learned counsel for petitioner submits that the arbitration i.e., arbitration before AAT took place in Chennai (venue) and submits that this Court alone would have jurisdiction. Case file reveals that the captioned OP has been presented in this Court on 15.12.2016 and it is the specific case of learned counsel for petitioner that the impugned award was received by the petitioner under cover of letter dated 16.11.2015 (Page 90 of typed-set of papers 1 of petitioner). Learned counsel for first respondent submits that the date of receipt of impugned award by contesting first respondent is not readily available and seeks time to get instructions on that.

6. Be that as it may, this Court took it upon itself to go into Bombay High Court Official website to ascertain the present status of the case in the Bombay High Court, scanned reproduction of download from the official website of Bombay High Court is as follows:

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO. 353 OF 2016

Sharekhan Ltd.

....Petitioner

V/S

A.v. Vijaykumar

....Respondent

Mr. Rohan Cama i/by Mr. Deepak Sharma, Advocate for the
Petitioner

Mr. Siddharth Koti along with Mr. Gaurav Thakar i/by M/s. A.
S. Dayal & Associates, Advocate for the Respondents

Mentioned at 11 a.m.

CORAM : R.D. DHANUKA, J

DATE : 2nd July, 2019

P.C. :

By consent Stand Over to 16th August, 2019.

सत्यमेव जयते (ASSOCIATE)

7. Both learned counsel seek time to ascertain what happened on 16.08.2019 or thereafter. Both learned counsel also seek time to examine the legal position in a case of this nature regarding jurisdiction and make submissions.

List after three weeks.'

'Proceedings dated 22.12.2020

Read this in conjunction with and in continuation of earlier proceedings dated 16.09.2020.

2. There is no representation for contesting first respondent when the matter was called today, but Mr.Hari Radhakrishnan, counsel on record for sole petitioner is before me in this web-hearing on a video-conferencing platform. With the intention of giving further opportunity to first respondent and counsel for first respondent, list this matter on 25.01.2021.'

'Proceedings dated 25.01.2020

Read this in conjunction with and in continuation of earlier proceedings made in previous listing on 16.09.2020. To be noted, thereafter, there was one listing on 22.12.2020.

2. The essential facts are captured in aforementioned 16.09.2020 proceedings.

3. In the web hearing on a video conferencing platform today, Mr.Hari Radhakrishnan, learned counsel for sole petitioner and Ms.Meera Gnanasekar learned counsel for contesting first respondent are before me.

4. In continuation of essential facts captured in earlier proceedings dated 16.09.2020, it came to light that the question of territorial jurisdiction of this Section 34 Court and a Section 42 scenario arise in the case on hand.

5. Trading Regulations of National Stock Exchange of India Limited [hereinafter 'NSE' for the sake of brevity] and more particularly, Regulations – Part A in the Capital Market Segment are

applicable to the case on hand, relevant clause which serves as arbitration agreement between the parties being arbitration agreement within the meaning of Section 2(1)(b) read with Section 7 of 'The Arbitration and Conciliation Act, 1996 (Act No.26 of 1996)' which shall hereinafter be referred to as 'A and C Act' for the sake of convenience and clarity is clause 5 of these regulations captioned 'Arbitration'. Most relevant part of clause 5 touching upon jurisdiction are 5.2 and 5.3 which read as follows:

'5.2 SEAT OF ARBITRATION

(a) The Relevant Authority may provide for different seats of arbitration for different regions of the country either generally or specifically and in such an event the seat of arbitration shall be the place so provided by the Relevant Authority.

(b) The premises/location where arbitration shall take place shall be such place as may be identified by the Exchange from time to time and intimated to the arbitrator and the parties to the dispute accordingly.

5.3 JURISDICTION OF COURTS

For the purpose of Bye-law 17 of Chapter XI of the Bye-laws of the Exchange, the application under Section 34 of the Act, if any, against the decision of the Appellate Arbitrator shall be filed in the competent Court nearest to such regional centre where the Appellate Arbitral Proceedings have been conducted.'

6. There are two agreements between petitioner and contesting first respondent. This Court is informed that both agreements are dated 13.02.2006, one is Depository Agreement and other is Trading

Agreement. Clauses 17 and 18 of the Depository Agreement read as follows:

'17. The Depository participant and the client shall abide by the arbitration and conciliation procedure prescribed under the Bye laws of National Securities Depository Limited and that such procedure shall be applicable to any disputes between the Depository participant and the client.

18. The Depository participant and the client further agree that all claims, differences and disputes arising out of or in relation to dealings on the Depository including any transactions made subject to the Bye-laws or Business Rules of the Depository or with reference to anything incidental thereto or in pursuance thereof or relating to their validity, construction, interpretation, fulfillment or the rights, obligations and liabilities of the parties thereto and including the question of whether such dealings, transactions have been entered into or not, shall be subject to the exclusive jurisdiction of the Courts at Mumbai only.'

7. Most relevant clause in the Trading Agreement is clause 1.7.18, which reads as follows:

'1.7.18. The stock broker and the client declare and agree that the transactions executed on the Exchange are subject to Rules, Bye-laws and Regulations and circulars issued thereunder of the Exchange and all parties to such trade shall have submitted to the jurisdiction of such Court as may be specified by the Bye-laws and Regulations of the Exchange for the purpose of giving effect to the provisions

of the Rules Bye laws and Regulations of the Exchange and the circulars issued thereunder.

8. While the parties have agreed to go by aforesaid regulations for dispute resolution, owing to clause 18 of the Depository Agreement (which has been extracted and reproduced supra) there appears to be a departure regarding juridical seat qua clauses 5.2 and 5.3 of Regulations. To be noted Regulations also have the trappings of a contract and are not statutory Regulations.

9. On this basis first respondent has already challenged the same impugned award in Bombay High Court vide arbitration petition No.353 of 2016 which this Court is informed was presented in the Bombay High Court on 19.12.2015. Hon'ble Bombay High Court is in seizin of the matter. The aforesaid clauses operating between the parties are beyond any pale of disputation or disagreement.

10. Faced with the above situation, learned counsel for petitioner requests for a short accommodation to make further submissions if any. List under the same caption on 01.02.2021.'

'Proceedings dated 01.02.2021

'Read this in conjunction with and in continuation of earlier proceedings made in previous listing on 25.01.2021.

2. Today in this Virtual Court, Mr.Hari Radhakrishnan, learned counsel for sole petitioner is before me.

3. Learned counsel submits that he has since been filed an additional compilation styled as 'Additional Typed Set No.II' on 29.01.2021 vide D.No.2485 of 2021.

4. *Be that as it may, there is no representation for contesting first respondent.*

5. *Registry to place the aforementioned Additional Typed Set No.II before me tomorrow. For this purpose and with the intention of giving an opportunity to contesting first respondent, list this matter tomorrow i.e., 02.02.2021.'*

5. As already alluded to supra, two proceedings made in the two listings on 16.09.2020 and 27.01.2021 will suffice. Be that as it may, as these two proceedings capture the controversy, this Court deems it appropriate to not to burden this order with repetition.

6. Post 01.02.2021 listing, Additional Typed-set of Papers II dated 29.01.2021 filed by learned counsel for petitioner has now been placed before me.

7. Learned counsel for petitioner in captioned OP in continuation of his submissions, drew the attention of this Court to 'Securities Contracts (Regulation) Act, 1956 (Act 42 of 1956)' [hereinafter 'Securities Act' for brevity, more particularly, Section 9 thereat and more particularly Section 9(2)(j)(k) and (n), which read as follows:

'9.Power of recognised stock exchange to make bye-laws:

(1).....

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for

a).....

b).....

c).....

d).....

e).....

f)

g).....

h).....

i)

(j) *The terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;*

(k) *the regulation of the entering into, making, performance, recession and termination of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a settler or buyer, and the responsibility of members who are not parties to such contracts;*

(n) *the method and procedure for the settlement of claims or disputes, including settlement by arbitration.'*

8. Thereafter, learned counsel drew the attention of this Court to NSE Bye Laws, more particularly Bye Law 2(a) of Chapter V and Bye Law 5 of Chapter VII thereat to say that Trading Members have to adhere to NSE Bye-laws and there is inviolability of trade in this regard. On this

basis, learned counsel submitted that NSE Bye laws have a statutory flavour and to buttress this submission, order of Hon'ble single judge of Delhi High Court dated 25.04.2012 made in O.M.P.No.217 of 2006 [*Debjoyti Gupta Vs. Indisbills Securities Ltd., and Another*] and order of Hon'ble Calcutta High Court dated 02.05.2002 made in *S & D Securities Pvt. Ltd. and another Vs. Union of India (UOI)* and orders reported in (2003) 1 CALLT 608 HC were pressed into service. Thereafter, learned counsel drew the attention of this Court to Chapter XI of NSE Bye Laws captioned 'ARBITRATION' and more particularly Bye law 17 thereat, which talks about jurisdiction. Adverting to Chapter XI(17) of NSE Bye Laws, learned counsel very fairly submitted that if this were to be applied, the jurisdictional Court would be the District Court at Thrissur. In a nutshell, submissions of learned counsel for petitioner are to the effect that NSE bye laws have a statutory flavour and therefore the arbitration agreement has to be read in consonance with the same. In other words, it cannot be read contrary to the same, is his submission.

9. In response to the aforesaid submissions, learned counsel for contesting first respondent submitted that the contesting first respondent has already filed an application under Section 34 of A and C Act in Bombay High Court which is in seizin of the matter and therefore, this OP, if at all and if that be so should be heard only in the Bombay High Court.

10. This Court now proceeds to carefully examine the submissions, discuss the same and give its dispositive reasoning on territorial jurisdiction.

11. Section 20 of A and C Act is of relevance. The lead case rendered by Hon'ble Supreme Court on Section 20 is *Indus Mobile* case [*Indus Mobile Distribution Private Limited Vs. Datawind Innovations Private Limited and others* reported in (2017) 7 SCC 678]. In Paragraph 18 of *Indus Mobile*, Hon'ble Supreme Court has made it clear that 'place' occurring in sub-sections (1) and (2) of Section 20 is 'seat' and 'place' occurring in sub-section (3) of Section 20 is 'venue'. Paragraph 18 of *Indus Mobile* case reads as follows:

'Paragraph 18 of *Indus Mobile* case:

'18. The amended Act, does not, however, contain the aforesaid amendments, presumably because

the *BALCO* [*BALCO v. Kaiser Aluminium Technical Services Inc.*, (2012) 9 SCC 552 : (2012) 4 SCC (Civ) 810] judgment in no uncertain terms has referred to “place” as “juridical seat” for the purpose of Section 2(2) of the Act. It further made it clear that Sections 20(1) and 20(2) where the word “place” is used, refers to “juridical seat”, whereas in Section 20(3), the word “place” is equivalent to “venue”. This being the settled law, it was found unnecessary to expressly incorporate what the Constitution Bench of the Supreme Court has already done by way of construction of the Act. '

12. To be noted, *Indus Mobile* case has been rendered by Hon'ble Supreme Court based on *BALCO* [*BALCO v. Kaiser Aluminium Technical Services Inc.*, (2012) 9 SCC 552 : (2012) 4 SCC (Civ) 810].

13. Thereafter, the march of law saw *BGS SGS Soma* principle being principle laid down by Hon'ble Supreme Court in *BGS SGS Soma JV vs. NHPC Ltd.* reported in (2020) 4 SCC 234 and *Brahmani River Pellets case* [*Brahmani River Pellets Limited Vs. Kamachi Industries Limited* reported in (2020) 5 SCC 462]. The most relevant paragraph in *BGS SGS Soma* is Paragraph 82 and the same reads as follows:

'82. On a conspectus of the aforesaid judgments, it may be concluded that whenever there is the designation of a place of

arbitration in an arbitration clause as being the “venue” of the arbitration proceedings, the expression “arbitration proceedings” would make it clear that the “venue” is really the “seat” of the arbitral proceedings, as the aforesaid expression does not include just one or more individual or particular hearing, but the arbitration proceedings as a whole, including the making of an award at that place. This language has to be contrasted with language such as “tribunals are to meet or have witnesses, experts or the parties” where only hearings are to take place in the “venue”, which may lead to the conclusion, other things being equal, that the venue so stated is not the “seat” of arbitral proceedings, but only a convenient place of meeting. Further, the fact that the arbitral proceedings “shall be held” at a particular venue would also indicate that the parties intended to anchor arbitral proceedings to a particular place, signifying thereby, that that place is the seat of the arbitral proceedings. This, coupled with there being no other significant contrary indicia that the stated venue is merely a “venue” and not the “seat” of the arbitral proceedings, would then conclusively show that such a clause designates a “seat” of the arbitral proceedings. In an international context, if a supranational body of rules is to govern the arbitration, this would further be an indicia that “the venue”, so stated, would be the seat of the arbitral proceedings. In a national context, this would be replaced by the Arbitration Act, 1996 as applying to the “stated venue”, which then becomes the “seat” for the purposes of arbitration.'

14. The legal position is, the juridical seat determines an exclusive jurisdiction qua the supervisory Court or in other words, the Court which would have supervisory jurisdiction over the arbitral proceedings and to entertain a challenge to an award made thereat is determined by seat agreed to by parties and jurisdiction of such a court is exclusive.

15. After *SGS BGS soma*, another three member Bench of Hon'ble Supreme Court in *Hindustan Construction Company Limited* case [*Hindustan Construction Company Limited Vs. NHPC Limited and Another* reported in (2020) 2 SCC (Civ) 683], adverting to *BGS SGS Soma* held that New Delhi was chosen as seat by the parties in that case and therefore, transferred the earlier application made in Faridabad Court. In other words, the principle is, once the seat has been designated, that becomes exclusive jurisdiction.

16. As would be evident from the earlier proceedings, more particularly proceedings dated 16.09.2020 and 25.01.2021, the parties at lis before AT have entered into agreements post regulations (Part A in the capital market segment and NSE Bye Laws). There is no dispute or disagreement that NSE Bye Laws provide for arbitration vide Chapter XI. In other words, Chapter XI of NSE Bye Laws serves as an arbitration

agreement between the parties within the meaning of Section 2(1)(b) read with Section 7 of the A and C Act. The moment there is an arbitration agreement, party autonomy kicks in. Parties by exercise of party autonomy, have clearly chosen Mumbai as the juridical seat as would be evident from Clause 17 and Clause 18 of the depository agreement which has been extracted and reproduced supra. There is no dispute that the lis turns heavily on the depository agreement also. In other words, absent depository agreement, the lis cannot survive.

17. Therefore, it comes out clearly that the challenge to arbitral award made in the Bombay High Court by the contesting first respondent vide Arbitration Petition No.353 of 2016 is clearly a petition that has not been made to a Court without jurisdiction. In other words, the earlier challenge by contesting first respondent before this Court to the impugned award of AAT is clearly to a Court with territorial jurisdiction. Therefore, Section 42 principle kicks in. Section 42 of A and C Act reads as follows:

'42. Jurisdiction._Notwithstanding anything contained elsewhere in this Part or in any other law for the time being in force, where with respect to an arbitration agreement any application

under this Part has been made in a Court, that Court alone shall have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court.'

18. It has been repeatedly held by Hon'ble Supreme Court that when the first proceedings has been filed in a Court with jurisdiction, Section 42 will kick in and this applies to Section 34 proceedings also. As we are concerned only with Section 34 proceedings, this Court deems it appropriate to not to dilate any further on Sections 8 and 11 being in another legal basket.

19. With regard to the proceedings before Bombay High Court, advertent to the earlier proceedings made by this Court in the listing on 16.09.2020, both the learned counsel before me submit that they have taken instructions from their respective counter parts in the Bombay High Court and they submitted, on instructions, that there has been no further listings after 02.07.2019. In other words, Hon'ble Bombay High Court is in seisin of the matter qua challenge to the impugned award of AAT. In this view of the matter, as the aforementioned orders made by Hon'ble Delhi High Court and Hon'ble Calcutta High Court have been referred to

only for the limited purpose to say that NSE Bye Laws have a statutory flavour, it may not be necessary to go into the same. To be noted, those are not cases where proceedings were pending in two different Courts and those are not cases where the principle of juridical seat determining supervisory court with exclusive jurisdiction were examined. In any event, both those orders were made in the years 2012 and 2013, much before the law regarding seat, venue, exclusive jurisdiction evolved. In any event, on facts, they are clearly distinguishable and have no application to the territorial jurisdiction of supervisory Court issue that is being examined in the case on hand.

20. In any event, this Court took it upon itself to verify the official website of the Bombay High Court with regard to the last proceedings in the Bombay High Court as well case status, a scanned reproduction of the same downloaded today in the course of the hearing by this Court from the official website of the Bombay High Court is as follows:

30/03/2021 Case Query - Details - High Court of Bombay

High Court of Bombay

Home About Judges Services Information News Court & Office Site Map All Pages Appointment

Case Details
Bench:-Bombay

Precedence Date:- 19/03/2016

Lodging No.:-	ARBPL/2404/2015	Filing Date:-	19/12/2015	Reg. No.:-	ARBPL/254/2016	Reg. Date:-	15/02/2016
Petitioner:-	SHARAKHAI LTD.	Respondent:-	A.V. VUAYRU/MAR.				
Peta. No.:-	DEEPAK SHARMA (1910)	Resp. Advs.:-	M/S. A. S. DAYAL & ASSOCIATES (2060)				
District:-	MUMBAI						
Bench:-	SINGLE						
Status:-	Admitted(Unready)	Category:-	ARBITRATION ACT.				
Est. Date:-	16/05/2019	Stage:-	ARB. FOR HEARING AND FINAL DISPOSAL US 34				
Est. Chair:-	HON'BLE SHRI JUSTICE R.D. DHANAWDA						
Acts:-	Arbitration and Conciliation Act 1996	Under Section:-	34				

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO. 353 OF 2016

Sharekhan Ltd.Petitioner

V/S

A.v. VijaykumarRespondent

Mr. Rohan Cama i/by Mr. Deepak Sharma, Advocate for the
Petitioner

Mr. Siddharth Koti along with Mr. Gaurav Thakar i/by M/s. A
S. Dayal & Associates, Advocate for the Respondents

Mentioned at 11 a.m.

CORAM : R.D. DHANUKA, J

DATE : 2nd July, 2019

P.C. :

By consent Stand Over to 16th August, 2019.

सत्यमेव जयते
(ASSOCIATE)

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21. There is one other aspect of the matter which needs to be noticed. On an extreme demurrer, it is to be noticed that if captioned OP is entertained by this Court and if the same is decided on merits, there is every possibility of anomaly and conflict of decisions. This is mentioned

only as an additional buttressing point. In the light of the discussion and dispositive reasoning thus far regarding territorial jurisdiction, this Court decides that captioned OP is liable to be rejected as lacking in territorial jurisdiction. It is made clear that it is open to the petitioner in captioned OP to present captioned OP in the Bombay High Court and if the petitioner chooses to do so, this order will not come in the way. Though obvious, it is also made clear that this Court has not expressed any opinion whatsoever on the merits of the challenge to the impugned award of the AAT as that would be the exclusive domain of the supervisory Court with exclusive jurisdiction i.e., Hon'ble Bombay High Court in this case. In other words, all questions on merits of challenge to impugned award remain untouched.

Captioned OP rejected in the above manner/on above terms. There shall be no order as to costs.

Speaking order: Yes
Index: Yes
gpa

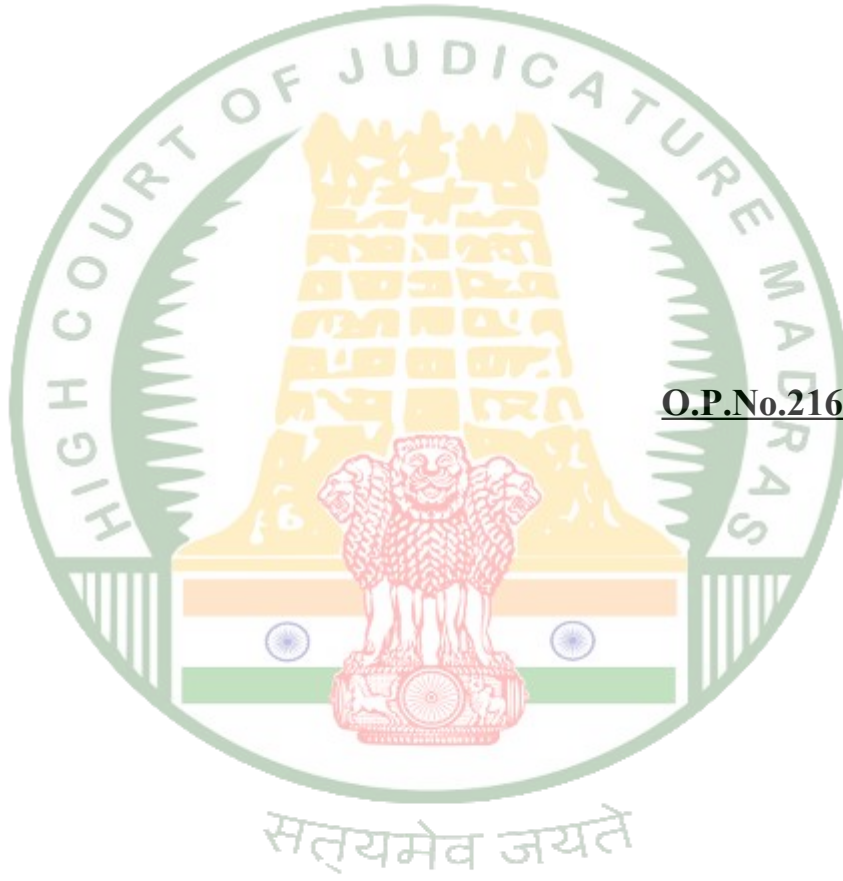
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