

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

COMMERCIAL ARBITRATION APPLICATION NO. 198 OF 2024
(U/s. 11 of A & C Act, 1996)

WITH

COMMERCIAL ARBITRATION PETITION NO. 373 OF 2024
(U/s. 9 of A & C Act, 1996)

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Aditya Birla Housing Finance Limited

... Applicant/Petitioner

Vs.

M/s. Rise Projects Pvt. Ltd.

.. Respondent

Mr. Vishal Maheshwari a/w. *Ms. Shrishty Punjabi i/b V M Legal, for
Applicant/Petitioner.*

Ms. Naira Jeejeebhoy, Counsel a/w. *Ms. Ragini Singh, Ms. Sanjana Salvi,
Ms. Priya Rai, Ms. Varsha Madhukar and Ms. Pooja Pandey, for
Respondent.*

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : July 8, 2025

Oral Judgement :

Context and Factual Background:

1. This Application has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 ("***the Act***") seeking reference of disputes and differences between the parties under two Tripartite Agreements dated

November 2, 2016 (“*Agreements*”) executed by the Applicant (“*Lender*”), the Respondent (“*Developer*”), and one Mr. Neeraj Choudhary (“*Borrower*”).

2. By the Agreements, it was contemplated that the Lender would lend funds to the Borrower in connection with development of two bungalows located in Haryana that were being constructed by the Developer. The Developer is based in Delhi and is said to have no presence whatsoever in the State of Maharashtra. Consequently, a preliminary objection has been raised by the Developer, questioning the territorial jurisdiction of this Court for this Application to be entertained.

3. The short question that falls for consideration is whether this Court would have territorial jurisdiction at all in the matter. Learned Counsel for the parties have made submissions at significant length with copious reliance on case law. Neither party adhered to the committed timeline of 10 minutes indicated on the first occasion – they took nearly an hour each.

4. In terms of territories where activity of the parties has taken place, the factual matrix is sprinkled all over India. The Developer is based in Delhi. The bungalows financed and forming part of the project developed by the Developer are located in Faridabad, Haryana. The Borrower is based in Gurgaon, Haryana. The Lender processed everything relevant for this matter from its branch office in Parliament Street, New Delhi. In fact, the loan

number assigned to the loan covered by the Agreements appear to have a New Delhi code. The Agreements explicitly record that they were executed in Ghaziabad, Uttar Pradesh.

5. Learned Counsel for the Lender has made strenuous efforts to indicate that this Court would have jurisdiction. The pleadings in this regard, which are contained in Paragraph No.14 of the Application, essentially raises six grounds for claiming territorial jurisdiction in favour of this Court. They are:

- A. The loan agreement (not the Agreements under which the arbitration is being initiated) was executed with the seat of arbitration for disputes being explicitly stated to be ‘Mumbai’;
- B. Under the loan agreement, the Lender filed a Petition under Section 9 before this Court;
- C. Even in these proceedings, the Lender has filed Section 9 Petition in this Court;
- D. The “corporate office” of the Lender is in Mumbai. The loan amount, if repaid, would have been realised in Mumbai, being the location of the corporate office of the Lender;

- E. The EMI (equated monthly instalment) payments would be routed through the “National Automated Clearing House” (NACH) of India’s central bank, which is located in Mumbai and payments under that system are monitored in Mumbai; and
- F. The loan amount disbursed directly to the Developer that ought to have been refunded by the Developer to the Lender would have been realised in a bank account of the Lender located in Mumbai.

Analysis and Findings:

6. I have heard at length Mr. Rohan Cama, Learned Counsel on behalf of the Lender and Ms. Naira Jeejeebhoy, Learned Counsel on behalf of the Developer. Their written submissions have also been examined, and with their assistance, the material on record has been studied.

7. On the basis of the aforesaid six criteria, it is strenuously asserted on behalf of the Lender that this Court has territorial jurisdiction in the matter. The aforesaid factors relied upon are dealt with in the following paragraphs.

Relevance of Seat in the Loan Agreement:

8. The loan agreement dated November 21, 2016 is executed after the execution of the Agreements (executed on November 2, 2016). The loan agreement is a “bipartite agreement” between the Lender and the Borrower. Being a subsequent document, if the Developer had been a party to it, the loan agreement may have had relevance. The Developer has no privity to the loan agreement. The seat explicitly stated in the loan agreement is Mumbai, whereas no seat is indicated in the Agreements underlying these proceedings.

9. The attempt to invoke the identification of seat in the loan agreement and import the components of the arbitration agreement in that instrument into the arbitration agreement in the Agreements is not tenable. Although the two agreements are related, the law declared by the Supreme Court is that a blanket reference in one instrument to the import of clauses in another related instrument would not be adequate to incorporate a binding arbitration agreement¹. That apart, the arbitration agreement contained in clause 14 of the Agreements makes no reference whatsoever to the arbitration agreement contained in the loan agreement – it could not have, the latter being subsequent in time of execution. Therefore, this is not a case of incorporation of seat by reference.

¹ *NBCC(India) Limited Vs. Zillion Infraprojects Private Limited - (2024) 7 SCC 174 – Paragraph Nos. 29 and 30*

10. The suggestion of importing the agreed seat in an agreement between the Lender and the Borrower into an agreement involving the Developer seems to be an argument of equity and not an argument based on contract. The Borrower is not sought to be made a party in these proceedings. Arbitration between the Lender and the Borrower has already been conducted under the loan agreement. The invocation under the Agreements is to enforce the right to a refund of the amounts released to the Developer by the Lender, contained in the Agreements, which obligation has no role for the Borrower. The Lender has rightly not made the Borrower a party to these proceedings – he is not a necessary party.

11. I have also examined the potential consideration of whether Mumbai would answer the principle of *forum conveniens* in the light of the loan agreement entailing Mumbai as the seat of arbitration. However, it cannot be forgotten that it is the principle of *forum conveniens* that undermines this potential notion of a convenient forum. The Developer who is the Respondent in these proceedings and would be the defendant in the arbitration proceedings has no presence whatsoever in Maharashtra. The activity of development of the two bungalows financed by the Lender has nothing to do with Maharashtra – they are located in Haryana. The Developer has no presence in Maharashtra and locating the arbitration

proceedings in Mumbai would pose serious inconvenience to the proposed defendant. The bundle of facts relating to the development and the default would lie where the defendant operates. The obligation to refund would have to be discharged in Haryana. Even the processing of the Agreements and the loans pursuant to the Agreements have evidently been carried out from the New Delhi office of the Lender.

12. It is understandable why as a *via media*, the Learned Counsel for the Lender offers to agree to an arbitrator from New Delhi or Haryana but to be appointed by this Court in disposal of these proceedings with the seat being Mumbai. This is rebuffed by the Developer since the seat being in Mumbai would entail all future proceedings in relation to the arbitration also being moored to the courts with jurisdiction over the location of the seat.

13. That apart, it is seen from the record that the Lender, in respect of other bungalows financed in the very same project of the Developer, has initiated multiple proceedings in the Delhi High Court. It is only in the instant case, that on the basis of the loan agreement having had a seat in Mumbai, the import of the seat from the loan agreement is being sought and by implication even Section 42 of the Act is sought to be invoked.

Section 42 of the Act:

14. The Section 9 Petition connected to the Agreements was indeed filed in this Court. The upshot of this contention appears to be that once a Section 9 Petition has been filed in this Court, by operation of Section 42 of the Act all future applications must come to this Court.

15. Such a contention is also ill-founded because this Court has not yet dealt with the issue of territorial jurisdiction in the course of hearing the Section 9 Petition. In fact, the issue has been noticed, flagged and kept open. The Section 9 Petition remains pending on the docket of this Court. That apart, for Section 42 to operate and render a Court that is approached first as the only Court before which all subsequent applications may be filed, the Court first approached would necessarily have to be a Court with competent jurisdiction. If all future applications have to be filed before the Court first approached, regardless of whether it is a Court with jurisdiction, a party may hunt for any forum regardless of jurisdiction and for no reason other than this was the forum first approached, it would become the Court with exclusive jurisdiction for all future applications, citing Section 42 of the Act. this would lead to absurd consequences.

16. To begin with, the Court first approached ought to have jurisdiction in the matter for it to become the Section 42 Court. This facet of law too, has

been squarely dealt with by the Supreme Court in at least two cases, namely, ***Ravi Ranjan***² and ***Associated Contractors***³.

Cause of Action – Location of Facts Relevant to the Dispute:

17. What precisely is the “cause of action” in the instant case, is the matter to be considered. The term “cause of action” is now well interpreted in a profusion of judgements to indicate how to interpret the term. The cause of action essentially is that bundle of facts, which if proved or not proved, would lead to a judgement.

18. The facts relied upon by the Lender to invoke this Court’s territorial jurisdiction, in my opinion, do not constitute facts the proving of which would turn the needle in favour of the Applicant one way or the other – they simply do not form part of the cause of action. No matter how strenuously the aforesaid six criteria are sought to be shown as facts that exist and are connected to the parties, they simply do not matter for adjudication of the dispute between the parties.

19. The location of the corporate office of the Lender being in Mumbai is of no consequence. The location of the corporate office is not a fact that has to be proved or disproved to get a judgement in favour of the Lender or the

² *Ravi Ranjan Developers (P) Ltd. v. Aditya Kumar Chatterjee* - 2022 SCC OnLine SC 568 – Paragraph Nos.31 and 32

³ *State of W.B. v. Associated Contractors* - (2015) 1 SCC 32 – Paragraph No.22

Developer. The location of the corporate office is irrelevant to the facts that have to be tried in the dispute. Consequently, notwithstanding the enormity of time spent on the issue, no relevance is found for this criterion.

20. Likewise, is the contention that the loan, if realised, would have been realized in Mumbai. The place in which the payment instruments would eventually lead to a flow of funds cannot confer jurisdiction. Likewise is the position in relation where the server of India's national payment systems is located. One would not need to lead evidence to prove where the NACH server is located to determine whether the Developer ought to refund the amounts disbursed by the Lender. The head office of the commercial bank in whose branch the Lender has a bank account is as irrelevant for the very same reason. One cannot lose sight of the fact that India has been one territorial unit for purposes of processing bank payments and clearances for a few decades now. Payment instruments issued by banks have been payable "at par" from any branch of a bank located anywhere in the country, for a long time now. Electronic payments that enable real time and speedy funds transfers are an extension of the same concept. None of these facts is remotely relevant for being put to trial in the dispute between the Lender the Developer. The copious submissions on these facets are wholly irrelevant.

21. These are extremely tenuous arguments that demonstrate the lengths to which the Lender has had to stretch and the expanse to which the point has had to be spread to somehow bring linkages to Mumbai, only to bring a defendant and a project that has no connection with Maharashtra within the territorial jurisdiction of this Court. Evidently, these facts are not those that have to be proved for judgement to be rendered in favour of either party. Therefore, the facts based on which territorial jurisdiction has been claimed by the Lender, in my opinion, do not constitute the cause of action relevant for these proceedings.

22. Learned Counsel for the Lender alluded to multiple disbursement requests annexed to the Section 9 Petition and the Section 11 Application, to point out that these requests for disbursement were addressed to the Lender's office in Mumbai. A careful perusal of the disbursement requests only adds further to the profuse expanse of locations involved in the matter. Some of the disbursement requests appear to be addressed to the Lender's office in Veraval in Gujarat. Regardless, this too is a factor irrelevant inasmuch the office to which the disbursement request was addressed would not be a fact that would be necessary to be proved to adjudicate the disputes between the parties.

23. Yet another element that needs to be borne in mind is that the equitable mortgage created over the two bungalows (T2 and T3), which are located in Haryana, has been executed in Haryana – not in Maharashtra.

24. For purposes of Section 2(1)(e) of the Act, some fact that needs to be proved, disproved or remaining unproved with necessary implication for the adjudication to be made, has to lie in the territory over which this Court has jurisdiction. In the absence of an explicit choice of seat or an explicit choice of jurisdiction being made by the parties in the Agreements, it would be impossible to hold that this Court would have jurisdiction regardless of whether this Court is the Section 2(1)(e) Court.

Cause of Action – determining factor:

25. Reference may be made to multiple judgements on the interpretation of the term “cause of action” and its nexus with territorial jurisdiction of Court. This issue continues to be presented to Courts, not just in civil proceedings, but even in writ proceedings under Article 226 of the Constitution of India, where too the cause of action ought to have arisen in the territory of the writ court. The principles underlying the extraordinary territorial jurisdiction adopted by the writ courts too are the same as those adopted in ordinary civil proceedings. Judgements rendered in each track

have adopted principles enunciated in the other. To quote from *Kunjan Nair*⁴, which summarises the concept pithily:-

16. The expression “cause of action” has acquired a judicially settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but the infraction coupled with the right itself. Compendiously the expression means every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court. Every fact which is necessary to be proved, as distinguished from every piece of evidence which is necessary to prove each fact, comprises in “cause of action”.

17. In Halsbury's Laws of England (4th Edn.) it has been stated as follows:

“‘Cause of action’ has been defined as meaning simply a factual situation the existence of which entitles one person to obtain from the court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. ‘Cause of action’ has also been taken to mean that particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject-matter of grievance founding the action, not merely the technical cause of action.”

[Emphasis Supplied]

⁴ *Kunjan Nair Sivaraman Nair Vs. Narayanan Nair and Ors. - (2004) 3 SCC 277 – Paragraph Nos.16 and 17*

26. The act that the Lender complains of is the default in effecting a refund of the amount disbursed directly to the Developer. That act or rather inaction that gives the cause for the Lender's grievance did not take place anywhere in the territorial jurisdiction of this Court. The arbitration agreement is blank on the seat and venue of the arbitration as indeed on the identity of the Courts in which the parties agreed to confer jurisdiction.

27. The law is well declared in the case of *Adani Exports*⁵, where near-similar contentions about tenuous links to Ahmedabad were invoked. The Supreme Court repelled such contentions by finding that the credit of duty claimed, which was the cause of action, was in respect of exports made from Chennai and those claims of duty credit had been processed in Chennai. The Court held that unless the bundle of facts, proving of which would lead to a judgement one way or the other, fell within the territory of a certain Court, that Court would not have jurisdiction at all. The following extracts are noteworthy:-

13. *In spite of the above admitted facts, the respondents herein plead that as per the plea raised by them in para 16 of the special civil application, the following facts give rise to the cause of action conferring territorial jurisdiction on the Court at Ahmedabad. They are:*

(i) the respondents carry on their business of export and import from Ahmedabad:

⁵ *Union of India & Ors. Vs. Adani Exports & Anr. - (2002) 1 SCC 567*

(ii) their orders of export and import are placed from and are executed at Ahmedabad;

(iii) documents and payments for export and import are sent/made at Ahmedabad;

(iv) the credit of duty claimed in respect of exports were handled from Ahmedabad since export orders were received at Ahmedabad and payments also received at Ahmedabad;

(v) non-granting and denial of utilisation of the credit in the passbook will affect the business of the respondents at Ahmedabad;

(vi) the respondents have executed a bank guarantee through their bankers at Ahmedabad as well as a bond at Ahmedabad.

14. Though it is also contended in para 16 of the application that the appellants have their office at Ahmedabad, that contention has not been pressed since it is clear from the records that none of these appellants have their office at Ahmedabad. Dehors this fact, if we take into consideration the other facts enumerated hereinabove in support of the cause of action pleaded by the respondents, it is seen that none of these facts is in any way connected with the relief sought for by the respondents in their civil applications so as to constitute the cause of action at Ahmedabad.

17. It is seen from the above that in order to confer jurisdiction on a High Court to entertain a writ petition or a special civil application as in this case, the High Court must be satisfied from the entire facts pleaded in support of the cause of action that those facts do constitute a cause so as to empower the court to decide a dispute which has, at least in part, arisen within its jurisdiction. It is clear from the above judgment that each and every fact pleaded by the respondents in their application does not ipso facto lead to the conclusion that those facts give rise to a cause of action within the court's territorial jurisdiction unless those facts pleaded

are such which have a nexus or relevance with the lis that is involved in the case. Facts which have no bearing with the lis or the dispute involved in the case, do not give rise to a cause of action so as to confer territorial jurisdiction on the court concerned. If we apply this principle then we see that none of the facts pleaded in para 16 of the petition, in our opinion, falls into the category of bundle of facts which would constitute a cause of action giving rise to a dispute which could confer territorial jurisdiction on the courts at Ahmedabad.

18. As we have noticed earlier, the fact that the respondents are carrying on the business of export and import or that they are receiving the export and import orders at Ahmedabad or that their documents and payments for exports and imports are sent/made at Ahmedabad, has no connection whatsoever with the dispute that is involved in the applications. Similarly, the fact that the credit of duty claimed in respect of exports that were made from Chennai were handled by the respondents from Ahmedabad have also no connection whatsoever with the actions of the appellants impugned in the application. The non-granting and denial of credit in the passbook having an ultimate effect, if any, on the business of the respondents at Ahmedabad would not also, in our opinion, give rise to any such cause of action to a court at Ahmedabad to adjudicate on the actions complained against the appellants.

19. Mr Ashok Desai, however, pleaded that the respondents have executed a bank guarantee and a bond at Ahmedabad which in law the respondents are entitled to get cancelled through the intervention of the courts at Ahmedabad. This fact having been specifically pleaded in the application and a relief being sought for that purpose, would definitely give rise to a part of cause of action at Ahmedabad, but on behalf of the appellants, it is pointed out to us that the subject-matter involved in the applications pertains to the denial of the benefit of the import-export scheme which ended w.e.f. 31-3-1997 while the bank guarantee and the bond in question were not part of the Passbook Scheme which is the subject-

matter of the special civil applications with which we are concerned now. Execution of the bank guarantee was not with reference to the demand of the respondents to give it due credit in the passbook but the same was executed much later than 31-3-1997 in regard to certain disputes pending with the Customs Authorities in regard to the valuations made by the said Authorities as to the value of the export and import of prawn and its inputs. It was also pointed out that these Customs Authorities, as a matter of fact, are not even parties to these special civil applications. Thus, it is contended that the factum of the respondents having executed a bank guarantee and a bond at Ahmedabad will have no direct nexus or bearing on the disputes involved in these applications. It is pointed out to us by learned counsel for the appellants that in regard to the correctness of the valuation, separate proceedings have been initiated and against the findings in those proceedings, separate appeals are pending in this Court, therefore, the bank guarantee and the bond executed by the respondents, as a matter of fact, have nothing to do with the cause of action that may arise to challenge the denial of the benefit of the Passbook Scheme. Inclusion of this totally extraneous claim in the present writ petition cannot be construed as being a factor giving rise to a cause of action. In the case of ONGC [(1994) 4 SCC 711] this Court negated the contentions advanced on behalf of the respondents therein that either the acquisition of knowledge made through media at a particular place or owning and having an office or property or residing at a particular place, receiving of a fax message at a particular place, receiving telephone calls and maintaining statements of accounts of business, printing of letterheads indicating branch offices of the firm, booking of orders from a particular place are not the factors which would give rise to either wholly or in part cause of action conferring territorial jurisdiction to courts. In the said case, this Court also held that the mere service of notice is also not a fact giving rise to a cause of action unless such notice is an integral part of the cause of action.

20. Mr Desai, however, placed reliance on a recent judgment of this Court

in Navinchandra v. State of Maharashtra [(2000) 7 SCC 640 : 2001 SCC (Cri) 215] wherein this Court had held that a part of the cause of action had arisen within the jurisdiction of the Bombay High Court. It is to be noted that in the said petition, among other reliefs, the writ petitioner had prayed for a writ of mandamus to the State of Meghalaya to transfer the investigation to Mumbai Police as also allegations of mala fides were made as to the filing of the complaint at Shillong. It was also averred in that case that the petitioner was primarily aggrieved by the criminal complaint filed at Meghalaya because the bulk of the investigation was carried on at Bombay. The said writ petition was dismissed by the Bombay High Court solely on the ground that since the complaint in question was filed in Shillong in the State of Meghalaya and the petitioner had sought for quashing of the said complaint, such a writ petition was not maintainable before the High Court of Bombay. According to this Court, that finding was given without taking into consideration the other alternative prayers in the writ petition to which we have made reference hereinabove, which prayers according to this Court, gave rise to a cause of action to move the High Court at Bombay for relief. Therefore, in our opinion, this judgment does not help the writ petitioner to justify its action in filing a writ petition before the Gujarat High Court. That apart, we must notice that the said judgment is delivered in a matter involving criminal dispute and consequences of such dispute have a direct bearing on the personal freedom of a citizen guaranteed under Article 21 of the Constitution. Therefore, the consideration that arises in deciding the question of territorial jurisdiction in cases involving criminal offences may not always apply to cases involving civil disputes like the special civil applications with which we are concerned. Mr Desai then urged that since the High Court has elaborately dealt with the merits of the case and given a finding in favour of the respondents in the interest of justice, we should not interfere with the said finding and uphold the same. We are not inclined to accept this argument of the learned counsel because the appellants herein had taken objection to the entertainment of the special civil applications by the Gujarat High Court on the ground of lack of territorial jurisdiction in the first instance itself and the same was

rejected, according to us, wholly on unsustainable grounds. As a matter of fact, the appellant on the entertainment of the civil application and grant of interim order, had challenged the said order on the ground of want of jurisdiction by way of a civil appeal in this Court which appeal is pending consideration by this Court, therefore, the objection having been taken at the first instance itself and the court having not proceeded to decide this question of territorial jurisdiction as contemplated under Order 14 Rule 2 CPC, we think we cannot deny relief to the appellant solely on the ground that the High Court has chosen to proceed to decide the case on merit. This being a judgment of a court having no territorial jurisdiction, the judgment has to be set aside. However, the special civil applications cannot be dismissed on this ground because it has been the contention of the appellants themselves in the objections filed by them before the High Court, that these applications ought to be transferred to the High Court at Chennai, in the interest of justice, we agree with this plea.

[Emphasis Supplied]

28. In *ONGC*⁶, the jurisdiction of the Calcutta High Court had been invoked on the premise that the awareness about the contract being proposed by ONGC came about on reading an advertisement in a newspaper published in Calcutta. This was repelled by the Court. In fact, *Adani Exports* refers to *ONGC* in the portions extracted above. Likewise is the case of *Kusum Ingots*⁷ the fundamental principle set out is that some portion of the facts, the proving of which would be necessary to decide the dispute between the

⁶ *Oil and Natural Gas Corporation Vs. Utpal Kumar Basu - (1994) 4 SCC 711 Paragraph Nos. 8 and 12*

⁷ *Kusum Ingots and Alloys Ltd. Vs. Union of India and Anr. - (2004) 6 SCC 254 – Paragraph Nos. 18 and 21*

parties (nexus with the prayers made) has been iterated. Despite the legislation being challenged having an effect in the territory of the Court approached, it was held that the bundle of facts on which the grievance is based out to be situated in the territory for legislation to be challenged in the writ court having jurisdiction over that territory.

29. To avoid prolixity, extracts of these judgements are not cited, but the paragraph numbers referred to in these judgements are set out in the footnotes. None of the six criteria pleaded in the captioned proceedings to invoke this Court's territorial jurisdiction represent facts that have a nexus to the grievance of the Lender for which the arbitration proceedings are sought to be pursued.

30. The principle of *forum conveniens* working in favour of the Developer cannot be ignored. In the teeth of the foregoing analysis, if the Developer were to be dragged to this Court, despite the cause of action having no relevant linkage to Maharashtra, and despite the activity of the Lender when appraising the Developer having been carried out in Delhi and also despite multiple other similarly placed proceedings actually being pursued in Delhi, exercising jurisdiction by this Court would inflict serious violence to the concept of cause of action quite apart from this Court being a *forum non-conveniens*.

Consideration of Costs:

31. The law being so clear and explicit in its terms, the undue expenditure of resources and time, including those of this Court in answering a question of this nature on tenuously linked facts, would necessitate examining the imposition of costs, this being a commercial dispute. Solely because of the persuasive skills of Mr. Vishal Maheshwari, advocate for the Lender, brought to bear at the time of dictating this judgement in Court, costs are not being imposed. The length of time for which this matter had been argued in the past, with the matter having remained inconclusive for very long and for no fault of the Lender, has weighed with me in refraining from imposing costs.

32. The Section 11 Application is ***finally disposed of*** without making any reference to arbitration for the foregoing reasons. In the absence of territorial jurisdiction, nothing would survive in the Section 9 Petition as well, which is also ***finally disposed of***.

33. Needless to say, the Lender is at liberty to pursue such other forum as may advisedly be available in accordance with law.

34. All actions required to be taken pursuant to this order, shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]