

20.07.2023

Ptrs.by SVN
R.2 by MSH
R.1, 3 to 6 Exparte
For Orders

**ORDERS ON MAINTAINABILITY OF THE
PETITION**

Heard.

The respondent filed objection to the petition and taken up a contention that Arbitration petition filed by the petitioner is not maintainable either in law or on facts before this Hon'ble Court for want of territorial jurisdiction. It also contended that the Arbitral Tribunal was constituted to sit in Thane in Maharashtra and the award was passed in Thane. So the arbitration award has to be challenged or questioned only before the jurisdictional court where the arbitration award has been passed.

The learned Advocate for the petitioner contended that the Arbitration petition filed before this court is maintainable as this court has got jurisdiction to hear the matter. He drawn the attention of the court it was the provision 64(1)(ii)(d) of Settlement of Disputes (Indian Railway Arbitration Rules), it reads as under:

The place of arbitration would be within the geographical limits of the Division of the Railway where the cause of action arose or the Headquarters of the concerned Railway or any other place with the written consent of both the parties.

This Arbitration dispute arose between the claimant and respondent for the South Western Railway, Hubballi. According to the petitioner arbitration hearing was held by the Tribunal in the office of Divisional Railway Manager/South Western Railway/Bengaluru and it is held through V.C. Either of the parties not produced any material before this court where exactly the arbitration award has been published and where the arbitration proceeding should be taken place. It is based on the arbitration agreement entered between the parties. Further the respondent also not produced any material before this court where exactly the arbitration agreement signed by the parties. Without the material document this court cannot decide that the Arbitration petition filed before this court is not maintainable. Hence, I am of the opinion that, it is just and reasonable to keep open this point at the time of final hearing of the proceeding. Accordingly, case is posted to 28.07.2023.

Prl. District & Sessions Judge,
Dharwad