



Order below Exh.1 in
Civil Misc. Application No. 258/2022
[Kaulgud Construction Pvt. Ltd. Vs. M/s. Container Corporation]

This is an application for setting aside an arbitral award passed under Section 34 of Arbitration and Conciliation Act, 1996 by an Arbitral Tribunal.

(2). Initially, the present matter was filed with District Court, Sangli. Thereafter, Hon'ble District Judge, Sangli passed an order below Exh.1 thereby directing the Registry to register it as Commercial Suit and be assigned to the file of this Court for disposal as per Law.

(3). The defendant appeared and raised an objection that the said miscellaneous application cannot be registered as suit under Commercial Courts Act, 2015 as the Court is not called upon to pass any decree in it. Already an award has been passed by an Arbitral Tribunal whereas, the present matter was filed for setting aside the said Award passed by the Arbitral Tribunal.

(4). This Court directed the Registry to de-register the Commercial Suit No.1/2019 and to register it as Miscellaneous Application under Commercial Courts Act, 2015. Accordingly, it was complied and the matter is registered as Civil Misc. Application No.258/2022.

(5). On previous date, the learned advocate for the plaintiff raised an oral objection regarding the jurisdiction of this Court. He contended that, though this Court has got a jurisdiction to try commercial suit under Commercial Courts Act, 2015 but, it has got no jurisdiction to try and entertain the legality, correctness and propriety of an Award passed by

Arbitral Tribunal under Arbitration and Conciliation Act, 1996. The same is vested with District court, Sangli, as it being a principal civil court of original jurisdiction in a district. To fortify his submission, he referred Section 2(e)(i) of The Arbitration and Conciliation Act, 1996. The same is reproduced below, which speaks as under :

2(e) – “Court” means – (i) in the case of an arbitration other than international commercial arbitration, the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court, or any Court of Small Causes.

(6). Perusal of Section 2(e)(i) of the aforesaid Act, the Jurisdiction to try and entertain a matter under Arbitration and Conciliation Act, 1996 is vested with District Court. Moreover, upon inquiry with the Registry of the establishment of the Civil Court Senior Division, Sangli has submitted that, there is no any notification has been issued by the District Court thereby divesting its powers to Civil Judge Senior Division to try and entertain the applications filed under Arbitration and Conciliation Act, 1996. In view of this, the present Court cannot try and entertain the present matter and the same is required to be dealt with District Court only. In view of this, the following order is passed.

ORDER

- (1). Issue a request letter to Hon’ble Principal District Judge, Sangli for withdrawal of this matter from the file of this Court and to transfer the same to the file of District Court.

Sangli.
Date:-20/02/2024.

Sd/xx
(M.M.Rao)
Civil Judge Sr.Dn., Sangli.

CERTIFICATE

I affirm that, the contents of this P.D.F file are same, word to word as per the original order.

Name of Stenographer : G.S.Parve
Court : Civil Judge Sr.Dn., Sangli
Date : 20/02/2024
Order signed by the Presiding Officer on : 21/02/2024
Order uploaded on : 21/02/2024