

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.9106-9107 OF 2014
(Arising out of SLP(C) Nos. 12013-12014 of 2012)

M/S KATRA HOLDING PRIVATE LIMITED APPELLANT(S)

VERSUS

PIONEER WINCON PRIVATE LIMITED & ORS. RESPONDENT(S)

O R D E R

Leave granted.

2. In the application filed by respondent No.1-defendant No.1 (Pioneer Wincon Private Limited) before the trial court under Section 8 of the Arbitration and Conciliation Act, 1996 (for short, "1996 Act") in the suit filed by the appellant, the trial court noticed the reliefs claimed by the plaintiff in the suit and also observed that the suit is filed against defendant No.2 in his individual capacity who has kept the shares of the Company in his personal demat account. The trial court further observed that defendant Nos. 2 to 4 were not parties to the Memorandum of Understanding and addendum as

they were entered between the plaintiff and defendant No.1. Consequently, the trial court dismissed the application made by the defendant No.1 under Section 8 of 1996 Act.

3. Aggrieved by the order of the trial court, defendant No.1 filed a revision petition before the Karnataka High Court. The High Court after hearing the parties set aside the order of the trial court. The principal reason given by the High Court is that the suit has been filed by the plaintiff in an action which is the subject matter of arbitration agreement. However, while saying so, the High Court had not at all considered the reasons given by the trial court in its order rejecting the application under Section 8 of the 1996 Act.

4. It may be stated here that on the application made by the plaintiff for interim relief, certain interim relief was granted by the trial court. On appeal being filed by the defendant No.1 against the interim relief, the High Court has set aside the order of the trial court. The present appeals arise from the above two orders.

5. After hearing the learned counsel for the parties and after perusal of the material available on record, we are satisfied that the arbitration agreement does not fully cover the dispute raised by the plaintiff in the suit, particularly, the reliefs sought for in the suit against defendant No. 2. The impugned order is, accordingly, liable to set aside and is set aside. The order of the trial court is restored.

6. We are informed that defendant No.2 is dead. Obviously, in that event, the plaintiff will have to take appropriate steps for bringing on record the legal representatives of deceased defendant No.2 in the suit.

7. All contentions of the parties are kept open to be adjudicated upon before the trial court in the suit. Needless to say, upon such objections being raised, the trial court will decide the same appropriately in accordance with law.

8. We clarify that our order is confined to the application made by defendant No.1 under Section 8 of the 1996 Act. We are not inclined to consider the

appeal from the impugned order relating to interim relief on merits. However, we observe that if the plaintiff makes any application of interim relief now, the trial court will consider the same in accordance with law.

9. Civil appeals are disposed of as above with no order as to costs.

.....CJI.
(R.M. LODHA)

.....J.
(KURIAN JOSEPH)

NEW DELHI;
SEPTEMBER 23, 2014

.....J.
(ROHINTON FALI NARIMAN)

ITEM NO.8

COURT NO.1

SECTION IVA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 12013-12014/2012

(Arising out of impugned final judgment and order dated 22/09/2011 in MFA No. 6443/2011,22/09/2011 in CRP No. 256/2011 passed by the High Court Of Karnataka At Bangalore)

M/S KATRA HOLDING P.LTD.

Petitioner(s)

VERSUS

PIONEER WINCON P.LTD. & ORS.

Respondent(s)

(with interim relief and office report)

Date : 23/09/2014 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s) Mr. P.H. Parekh, Sr. Adv.
Ms. Udita Singh, Adv.
For Mr. Chandra Prakash, Adv.

For Respondent(s) Mr. K. Swami, Adv.
Mr. Nikhil Swami, Adv.
Mrs. Prabha Swami, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

Civil Appeals are disposed of in terms of the
signed order.

(Neetu Khajuria)
Sr.P.A.

(Renu Diwan)
Court Master

(Signed order is placed on the file.)