

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL

ON THE 5th OF AUGUST, 2024

CIVIL REVISION No. 240 of 2012

M/S MAHINDRA & MAHINDRA FINANCIAL SERVICES LIMITED

Versus

MR. NEELAMBAR SINGH PATEL AND OTHERS

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Appearance:

Shri Rajesh Maindiretta with Ms. Udita Maindiretta - Advocate for the applicant.

None for the respondents, though served and represented.
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ORDER

This civil revision has been preferred by the applicant -decree holder challenging order dated 05/05/2012 passed by District Judge, Narsinghpur in M.J.C. No. 4/2011, whereby applicant's execution application under Section 36 of the Arbitration and Conciliation Act, 1996 read with Order 21 Rule 11 CPC has been dismissed on the ground of territorial jurisdiction of the Court.

2. Learned counsel for the applicant submits that for execution of the arbitration award dated 09/06/2010 passed at Mumbai, an application for execution was filed before District Judge, Narsinghpur especially in the circumstances, where the non-applicants are residing at Narsinghpur and the property is also within the jurisdiction of District Judge, Narsinghpur and such application was maintainable before the District Judge, Narsinghpur, but Executing Court taking into consideration decision of this High Court in the case of Computer Sciences Corporation India Pvt. Ltd. vs. Harishchandra

Lodwal and anr. AIR 2006 M.P. 34 held that the application is not maintainable before District Judge, Narsinghpur however, the applicant is free to file execution application before competent Court. Learned counsel for the applicant submits that the impugned order is based on decision of this Court in the case of Computer Sciences Corporation Pvt. Ltd. (*supra*), which has already been held to be not good law by Hon'ble Supreme Court in the case of Sundaram Finance Limited vs. Abdul Samad 2018(1) M.P.L.J. 640 (SC), therefore, she prays for setting aside the impugned order and for remanding the matter for decision on the application on merits.

3. Heard learned counsel for the applicant and perused the impugned order as well as the decision of Hon'ble Supreme Court in the case of Sundaram Finance Limited (*supra*).

4. Perusal of the impugned order shows that Executing Court has held the application to be not maintainable and disposed of the same with liberty to the applicant to file fresh application before the competent Court in the light of decision of this Court in the case of Computer Sciences Corporation Pvt. Ltd. (*supra*)

5. Hon'ble Supreme Court in the case of Sundaram Finance Limited (*supra*) has concluded as under:-

"22. We are, thus, unhesitatingly of the view that the enforcement of an award through its execution can be filed anywhere in the country where such decree can be executed and there is no requirement for obtaining a transfer of the decree from the Court, which would have jurisdiction over the arbitral proceedings.

23. The effect of the aforesaid is that the view taken by the Madhya Pradesh High Court and Himachal Pradesh High Court is held to be not good in law while the view of Delhi High Court, Kerala High

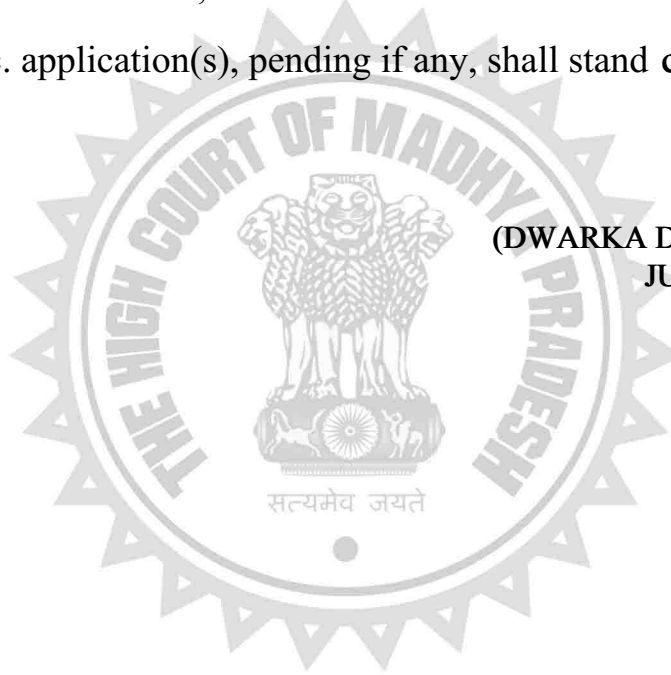
Court, Madras High Court, Rajasthan High Court, Allahabad High Court, Punjab and Haryana High Court and Karnataka High Court reflect the correct legal position, for the reasons we have recorded aforesaid."

6. In view of the aforesaid pronouncement by Hon'ble Supreme Court, in my considered opinion, the impugned order is not sustainable and deserves to be and is hereby set aside with the direction to the Executing Court to restore the execution application to its original number and decide the same afresh.

7. With the aforesaid, this civil revision is allowed and disposed off.

8. Misc. application(s), pending if any, shall stand closed.

(DWARKA DHISH BANSAL)
JUDGE



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