GAHC010283692023

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Arb.P./50/2023

SURUJ ZAMAL
S/O- LATE HUSSAIN ALI, VILL.- KHATANIAPARA, P.O. AND P.S. DHULA, DIST. DARRANG, ASSAM, PIN- 784146.

VERSUS

THE GTL INFRASTRUCTURE LTD (GIL),
A COMPANY DULY REGISTERED AND EXISTING UNDER THE COMPANIES ACT, 1956 AND HAVING ITS REGISTERED OFFICE AT 3RD FLOOR, GLOBAL VISION, ES II, MIDC TTC INDUSTRIAL AREA, MAHAPE, NAVI, MUMBAI-400710 AND ITS CIRCLE OFFICE- AT MAYUR GARDEN, 3RD FLOOR OPPOSITE OF RAJEEV BHAWAN, G.S. ROAD, GUWAHATI-781005.

BEFORE

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

For the petitioner : Mr. K. Rahman …. Advocate.

For the respondents : Mr. R. Sarmah …. Advocate

Dates of hearing : 13.02.2024

Date of Judgment : 27.02.2024

JUDGMENT AND ORDER (CAV)

1. Heard Mr. K. Rahman, learned counsel for the petitioner and Mr. R. Sarmah, learned counsel for the respondent.

2. The petitioner has submitted this application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "the 1996 Act") for appointment of an Arbitrator. The dispute between the parties relates to non-payment of rent. In this regard the petitioner's counsel has referred to Clause 22 of the Lease Deed dated 09.07.2014, which lays down a mechanism for adjudication of disputes by way of Arbitration. Clause 22 of the Lease Deed is as follows-

> "22. Any dispute or claim between the parties hereto arising out of or relating to this agreement, or its implementation and/or its effect, or the breach, termination, due to efflux of time or otherwise, or invalidity thereto, either during its subsistence or after its termination, shall be referred to the arbitration of a sole arbitrator in accordance with the provisions of Arbitration and Reconciliation Act, 1996. The Arbitration shall be held at Mumbai."

3. The petitioner's counsel submits that the petitioner had executed a Lease Deed with the Aircel Companies respondent for installation of a Mobile Tower on a plot of land measuring 2100 sq. feet of 3 Kathas 9 Lechas covered by Dag No.183 of Patta No.60, located in the village Khataniapara under Dhula Police Station in Darrang district. The Aircel Companies sold its infrastructure division to Chennai Network Infrastructure Ltd. (CNIL). Thereafter, the CNIL was

acquired/owned by the GTL Infrastructure Ltd. (GIL), the present respondent. As per Clause 22 of the Lease Deed, any dispute or claim between the parties arising out of the agreement or it's implementation etc. was to be referred to the arbitration of a sole Arbitrator in accordance with the provisions of the 1996 Act. Though Clause 22 of the Lease Agreement stated that the arbitration would be held at Mumbai, the Lease Deed having been executed in Assam and as the cause of action had arisen in Assam, the petitioner submitted an Arbitration Notice dated 25.10.2023 to appoint a Guwahati based Arbitrator, for adjudication of the dispute between the parties. As the respondents did not agree to the proposal of the petitioner, the petitioner has filed the present application for appointment of an Arbitrator.

4. The petitioner's counsel submits that though the Arbitration Clause provides that the arbitration shall be held at Mumbai, there is no bar for this Court to appoint an Arbitrator, inasmuch as, the cause of action pertains to Darrang District, Assam, where the Lease Deed/Agreement was executed. The learned counsel for the petitioner submits that in view of the above reasons, the situs/seat of the arbitration proceeding should be in Assam, as the Courts in Assam would have jurisdiction over the matter in dispute. Consequently, this Court should appoint an Arbitrator, even though the venue of arbitration may be held at Mumbai or any other place, as may be decided by the Arbitrator and the parties.

5. In support of his submission that this Court should appoint an Arbitrator in terms of Section 11(6) of the 1996 Act, he has relied upon the judgments of the Supreme Court in the case of ***M/s Ravi Ranjan Developers Pvt. Ltd. Vs. Aditya Kumar Chatterjee***, reported in ***2022 4 Supreme 337***; ***BGS SGS SOMA JV vs. NHPC Limited***, reported in ***(2020) 4 SCC 234*** and the

judgment of the Bombay High Court in the case of ***Hyundai Construction Equipment India Pvt. Ltd. Vs. M/s Saumya Mining Limited & Another*** **(Arbitration Petition No.32/2022).**

6. The learned counsel for the respondent, on the other hand submits that this Court cannot appoint an Arbitrator in terms of Section 11(6) of the 1996 Act, in view of the fact that the parties had agreed that the seat of the arbitration would be at Mumbai. He submits that the use of the word "venue" for the arbitration proceedings is absent from the Arbitration Clause. As the seat of the arbitration proceedings is to be held at Mumbai, the Mumbai High Court would have the jurisdiction to appoint an Arbitrator in terms of Section 11(6) of the 1996 Act.

7. In this regard, the learned counsel for the respondent has relied upon the judgments of the Supreme Court in the case of (i) ***Brahmani River Pellets Limited vs. Kamachi Industries Limited***, reported in ***(2020) 5 SCC 462,*** (ii) ***BBR (India) Private Limited vs. S.P. Singla Constructions Private Limited***, reported in ***(2023) 1 SCC 693*** and the order dated 08.01.2021 passed by this Court in Arb.P 23/2019 (Bhaben Sharma vs. GTL Infrastructure Ltd.(GIL) & Another.

8. The learned counsel for the respondent has also relied upon the judgment of the Supreme Court in ***BGS SGS SOMA JV vs. NHPC Limited***, reported in ***(2020) 4 SCC 234,*** which has also been relied upon by the petitioner

9. I have heard the learned counsels for the parties.

10. The facts of the case shows that the respondent's registered main office is at Mumbai, while the Lease Deed has been made in Khataniapara, Darrang District, Assam. The Mobile Tower has been constructed in Darrang District

Assam.

11. The bone of contention between the parties is as to whether the Arbitrator to be appointed under Section 11(6) of the 1996 Act should be done by this Court or the Mumbai High Court. To decide the question, this Court would have to determine the intention of the parties as to where the seat of arbitration would lie, as a dispute has arisen between them. To decide the said issue, this Court would have to look into the contents of the Arbitration Clause which is at Clause 22 of the Lease Deed dated 09.07.2014.

12. In the case of ***Brahmani River Pellets Limited (supra)***, Supreme Court was to decide whether the Orissa High Court or Madras High Court would have to appoint an Arbitrator in terms of Section 11(6) of the 1996 Act, inasmuch as, the Arbitration Clause provided that the venue of arbitration would be at Bhubaneswar. The Supreme Court held that when the parties have agreed to have the venue at Bhubaneswar, the Madras High Court erred in assuming jurisdiction under Section 11(6) of the 1996 Act. It further held that since only the Orissa High Court would have jurisdiction to entertain a petition filed under Section 11(6) of the 1996 Act, the appointment of an Arbitrator by the Madras High Court was liable to be set aside and the same was accordingly set aside.

13. The facts in the case of ***Brahmani River Pellets Limited (supra)*** shows that the parties therein had entered into an agreement for sale of iron ore pallets and payment was to be made by way of letter of credit in Bhubaneswar. The loading port was at Dharmra Port, Bhadrak, Odisha and destination was Chennai/Ennore Ports, Tamil Nadu. The agreement between the parties contained an Arbitration Clause, which was to the effect that the venue of arbitration would be at Bhubaneswar. As stated above, the Supreme Court in ***Brahmani River Pellets Limited (supra)*** held that when the parties have

agreed to have the venue at Bhubaneswar, the Madras High Court erred in assuming jurisdiction under Section 11(6) of the 1996 Act.

14. In the case of ***M/s Ravi Ranjan Developers Pvt. Ltd. (supra),*** the Supreme Court has referred to a four Judge Bench of the Supreme Court in ***Kiran Singh and Others vs. Chaman Paswan and Others***, reported in ***AIR 1954 SC 340***, wherein it held that a decree passed by a Court without jurisdiction is a nullity. A defect of jurisdiction, whether it is pecuniary or territorial or whether it is in respect of the subject matter of the action, strikes at the very authority of the Court to pass any decree and such a defect cannot be cured even by the consent of the parties. The Supreme Court in ***M/s Ravi Ranjan Developers Pvt. Ltd. (supra)*** was to decide whether the Calcutta High Court had the territorial jurisdiction to appoint an Arbitrator, when the Development Agreement was outside the jurisdiction of Calcutta High Court and the Development Agreement had been executed and registered outside the jurisdiction of the Calcutta High Court. Further, the appellant had it's registered office outside the jurisdiction of the Calcutta High Court. Also, no part of the cause of action had arisen within the jurisdiction of the Calcutta High Court.

The arbitration clause in the said was as follows-

> "37. That in case of any dispute or difference between the parties arising out of and relating to this development agreement, the same shall be settled by reference of the disputes or differences to the Arbitrators appointed by both the parties and such Arbitration shall be conducted under the provisions of the Indian Arbitration and Conciliation Act, 1996 as amended from time to time and the sitting of the said Arbitral Tribunal

shall be at Kolkata."

In the above facts, the Supreme Court held that as neither of the parties to the agreement construed the Arbitration Clause to designate Kolkata as the seat of Arbitration, the Calcutta High Court lacked the jurisdiction to entertain an application under Section 11(6) of the 1996 Act.

15. In the case of ***BGS SGS SOMA JV (supra),*** the Supreme Court has held that a judgment must be read as a whole, so that conflicting parts may be harmonised to reveal the true ratio of the judgment. However, if this was not possible and it was found that the internal conflicts within the judgment cannot be resolved, then the first endeavour that must be made is to see whether a *ratio decidendi* can be culled out without the conflicting portion. If not, then the binding nature of the precedent on the point on which there is a conflict in a judgment, comes under a cloud. It further held that where a seat of arbitration is designated in an agreement, the Courts of that seat alone would have jurisdiction and the same would require that all applications under Part-I of the 1996 Act should be made only in the Court where the seat is located. The Court where the seat is located has jurisdiction over the arbitral proceedings and all subsequent applications arising out of the arbitral proceeding. The Supreme Court further held that Section 42 of the 1996 Act is meant to avoid conflicts in jurisdiction of courts, by placing the supervisory jurisdiction over all arbitral proceedings in connection with the arbitration in one court exclusively. It further held that when no "seat" is designated by the agreement, or the so called seat is only a convenient venue, then there may be several courts where a part of the cause of action arises that may have jurisdiction. It further held that where the parties have not agreed on the seat of Arbitration and before such seat is

determined on the facts of a particular case, by the Arbitral Tribunal under Section 20(2) of the 1996 Act, the earliest application made to a Court in which a part of the cause of action arises, would then be the exclusive Court under Section 42 of the 1996 Act, which would have control over the arbitral proceedings.

16. The Supreme Court in ***BGS SGS SOMA JV (supra),*** had examined the concept of juridical seat of arbitral proceedings and in this respect referred to the judgment of ***Cooke, J,*** in the case of ***Shashoua vs. Sharma,*** reported in ***2009 EWHC 957 (Comm)*** wherein he had stated that when there is an express designation of a venue and no designation of any alternative place as the seat, combined with a supranational body of rules governing the arbitration, and no other significant contrary indicia, the inexorable conclusion is that the stated venue is actually the juridical seat of the arbitral proceedings. The Supreme Court further held in first six lines of paragraph 64 and in paragraph 67 & 69 as follows :

> "***64****. The Court in Enercon GmbH then held that although the word "venue" is not synonymous with "seat", on the facts of that case, London - though described as the "venue" - was really the "seat" of the arbitration. This was for the reason that London was a neutral place in which neither party worked for gain, and in which no part of the cause of action arose. It was thus understood to be a neutral place in which the proceedings could be "anchored".*
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> ***67****. After referring to Shashoua (supra) and Enercon GmbH (supra), the Court Shagang South-Asia (Hong Kong) Trading Co. Ltd. held:*
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> > "*38. In my judgment the approach adopted in Shashoua v Sharma and in other cases is appropriate in this case also. An agreement that the arbitration is 'to be held in Hong Kong' would ordinarily*

carry with it an implied choice of Hong Kong as the seat of the arbitration and of the application of Hong Kong law as the curial law. Clear words or 'significant contrary indicia' are necessary to establish that some other seat or curial law has been agreed."

***69**. The Court in Process and Industrial Developments Ltd, then held that the gas supply agreement provided for the seat of the arbitration to be in London, inter alia, for the following reasons:*

"85. .....(1) It is significant that clause 20 refers to the venue "of the arbitration" as being London. The arbitration would continue up to and including the final award. Clause 20 does not refer to London as being the venue for some or all of the hearings. It does not use the language used in Section 16(2) ACA of where the tribunal may "meet" or may "hear witnesses, experts or the parties". I consider that the provision represented an anchoring of the entire arbitration to London rather than providing that the hearings should take place there.

(2)Clause 20 provides that the venue of the arbitration "shall be" London "or otherwise as agreed between the parties". If the reference to venue was simply to where the hearings should take place, this would be an inconvenient provision and one which the parties are unlikely to have intended. It would mean that hearings had to take place in London, however inconvenient that might be for a particular hearing, unless the parties agreed otherwise. The question of where hearings should be conveniently held is, however, one which the arbitrators ordinarily have the power to decide, as indeed is envisaged in Section 16(2) ACA. That is likely to be a much more convenient arrangement. Clearly if the parties were in agreement as to where a particular hearing were to take place, that would be likely to be very influential on the Arbitral Tribunal. But if for whatever reason they were not in agreement, and it is not unknown for parties to arbitration to become at loggerheads about very many matters, then it is convenient for the arbitrators to be

able to decide. If that arrangement was to be displaced it would, in my judgment, have to be spelled out clearly. Accordingly, the reference to the "venue" as being London or otherwise as agreed between the parties, is better read as providing that the seat of the arbitration is to be England, unless the parties agree to change it. This would still allow the arbitrators to decide where particular hearings should take place, while providing for an anchor to England for supervisory purposes, unless changed."

17. The 3 Judges Bench of the Supreme Court in ***BGS SGS SOMA JV (supra)*** has also referred to the case of ***Brahmani River Pellets (supra)*** and thereafter held that on a conspectus of various judgments, it may be concluded that whenever there is the designation of a place of arbitration in an arbitration clause as being the "venue" of the arbitration proceedings, the expression arbitration proceedings would make clear that the "venue" is really the seat of the arbitral proceedings, as the aforesaid expression does not include just one or more individual or particular hearing, but the arbitration proceedings as a whole, including the making of an award at that place. Paragraph 82 of the judgment of the Supreme Court in ***BGS SGS SOMA JV (supra)*** is reproduced hereinbelow as follows :

"***82***. *On a conspectus of the aforesaid judgments, it may be concluded that whenever there is the designation of a place of arbitration in an arbitration clause as being the "venue" of the arbitration proceedings, the expression "arbitration proceedings" would make it clear that the "venue" is really the "seat" of the arbitral proceedings, as the aforesaid expression does not include just one or more individual or particular hearing, but the arbitration proceedings as a whole, including the making of an award at that place. This language has to be contrasted with language such as "tribunals are to meet or have witnesses, experts or the parties" where only hearings are to take place in the "venue", which may lead to the*

conclusion, other things being equal, that the venue so stated is not the "seat" of arbitral proceedings, but only a convenient place of meeting. Further, the fact that the arbitral proceedings "shall be held" at a particular venue would also indicate that the parties intended to anchor arbitral proceedings to a particular place, signifying thereby, that that place is the seat of the arbitral proceedings. This, coupled with there being no other significant contrary indicia that the stated venue is merely a "venue" and not the "seat" of the arbitral proceedings, would then conclusively show that such a clause designates a "seat" of the arbitral proceedings. In an International context, if a supranational body of rules is to govern the arbitration, this would further be an indicia that "the venue", so stated, would be the seat of the arbitral proceedings. In a national context, this would be replaced by the Arbitration Act, 1996 as applying to the "stated venue", which then becomes the "seat" for the purposes of arbitration."

18. As can be seen from the judgment of the Supreme Court, the word "venue" in an arbitration case and in the absence of any language referring to any seat of the arbitration proceedings, the expression venue would have to be taken to be the "seat" of the arbitral proceedings. However, in the event there is use of both the words "venue" and "seat", the two cannot be used interchangeably and the import of the word would have to be considered on the basis of the language used in respect of each of the words.

19. In the case of Arb. Pet. No.32/2022, ***Hyundai Construction Equipment India Pvt. Ltd. (supra),*** the first agreement between the parties provided for redressal of disputes by stating that the arbitration proceedings shall be conducted at Kolkata. The 2nd agreement provided that the arbitration proceedings shall be conducted at Pune, India. The Bombay High Court held that as an application in pursuance to the agreements was already made, before the Calcutta High Court, only that High Court had the jurisdiction to entertain

any application under the 1996 Act, in terms of the judgment of the Supreme Court in ***BGS SGS SOMA JV (supra),*** relating to the application of Section 42 of the 1996 Act. The reason given by the Bombay High Court was that as the Calcutta High Court was the first Court that had exercised jurisdiction over the arbitral proceedings, all subsequent applications were to be made before the Calcutta High Court. Further, the Bombay High Court held that as no part of the cause of action had arisen within the territorial jurisdiction of the Bombay High Court, the Calcutta High Court had jurisdiction over the same and that the venue of arbitration was of no consequence in terms of Section 2(1)(e) of the 1996 Act.

20. Section 42 of the 1996 Act states as follows-

> "***S.42 : Jurisdiction***
>
> *Notwithstanding anything contained elsewhere in this Part or in any other law for the time being in force, where with respect to an arbitration agreement any application under this Part has been made in a Court, that Court alone shall have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court."*

21. This Court in the case of ***Bhaben Sharma (supra)*** had disposed of the application under Section 11(6) of the 1996 Act, on the basis of the judgment passed in ***Brahmani River Pellets (supra),*** by holding that where the "seat" of arbitration is mentioned, the Court having jurisdiction over the said place will have exclusive jurisdiction of regulating the arbitral proceeding arising out of the agreement between the parties.

22. In the case ***BBR (India) Private Limited (supra)*** the Supreme Court has referred to the decision in ***BGS SGS SOMA JV (supra),*** wherein it was held that in terms of Section 2(1)(e) of the 1996 Act, "subject matter to arbitration" cannot be confused with the "subject matter of the suit". The "subject matter of the suit" in the said provision is confined to Part-I and to identify the courts having supervisory control over the judicial proceedings. Thus Clause (e) refers to a Court which would essentially be the "seat" of the arbitration process. The Supreme Court held that the legislature had given jurisdiction to two Courts under Section 20 of the 1996 Act, i.e, the Court which should have jurisdiction where the cause of action was located and the Court where the arbitration can take place. The seat of arbitration need not be the place where any cause of action has arisen, in the sense that the seat of arbitration may be different from where the obligations are/had to be performed under the contract.

23. The four Judges bench of the Supreme Court in ***BBR (India) Private Limited (supra)*** has stated in paragraph 16, 17 & 25 are as follows :

> "*16. Noticing the above interpretation, a three Judges Bench of this Court in BGS SGS Soma JV v. NHPC Ltd. has observed that the expression 'subject to arbitration' used in clause (e) to sub-section (1) of Section 2 of the Act cannot be confused with the 'subject matter of the suit'. The term 'subject matter of the suit' in the said provision is confined to Part-I. The purpose of the clause is to identify the courts having supervisory control over the judicial proceedings. Hence, the clause refers to a court which would be essentially a court of 'the seat' of the arbitration process. Accordingly, clause (e) to sub-section (1) of Section 2 has to be construed keeping in view the provisions of Section 20 of the Act, which are, in fact,*

determinative and relevant when we decide the question of 'the seat of an arbitration'. This interpretation recognises the principle of 'party autonomy', which is the edifice of arbitration. In other words, the term 'court' as defined in clause (e) to sub-section (1) of Section 2, which refers to the 'subject matter of arbitration', is not necessarily used as finally determinative of the court's territorial jurisdiction to entertain proceedings under the Act.

17. In BGS SGS Soma, this Court observed that any other construction of the provisions would render Section 20 of the Act nugatory. In view of the Court, the legislature had given jurisdiction to two courts: the court which should have jurisdiction where the cause of action is located; and the court where the arbitration takes place. This is necessary as, on some occasions, the agreement may provide the 'seat of arbitration' that would be neutral to both the parties. The courts where the arbitration takes place would be required to exercise supervisory control over the arbitral process. The 'seat of arbitration' need not be the place where any cause of action has arisen, in the sense that the 'seat of arbitration may be different from the place where obligations are/had to be performed under the contract. In such circumstances, both the courts should have jurisdiction, viz., the courts within whose jurisdiction 'the subject matter of the suit' is situated and the courts within whose jurisdiction the dispute resolution forum, that is, where the arbitral tribunal is located."

25. Accordingly, in BGS SGS Soma, the law as applicable, where the parties by agreement have not fixed the jurisdictional 'seat', is crystallised as under :

> *"82. On a conspectus of the aforesaid judgments, it may be concluded that whenever there is the designation of a place of arbitration in an arbitration clause as being the "venue" of the arbitration proceedings, the expression "arbitration proceedings" would make it clear that the "venue" is really the "seat" of the arbitral proceedings, as the aforesaid expression does not include just one or more individual or particular hearing, but the arbitration*

proceedings as a whole, including the making of an award at that place. This language has to be contrasted with language such as "tribunals are to meet or have witnesses, experts or the parties" where only hearings are to take place in the "venue", which may lead to the conclusion, other things being equal, that the venue so stated is not the "seat" of arbitral proceedings, but only a convenient place of meeting. Further, the fact that the arbitral proceedings "shall be held" at a particular venue would also indicate that the parties intended to anchor arbitral proceedings to a particular place, signifying thereby, that that place is the seat of the arbitral proceedings. This, coupled with there being no other significant contrary indicia that the stated venue is merely a "venue" and not the "seat" of the arbitral proceedings, would then conclusively show that such a clause designates a "seat" of the arbitral proceedings. In an International context, if a supranational body of rules is to govern the arbitration, this would further be an indicia that "the venue", so stated, would be the seat of the arbitral proceedings. In a national context, this would be replaced by the Arbitration Act, 1996 as applying to the "stated venue", which then becomes the "seat" for the purposes of arbitration."

24. In the case in hand, the arbitration clause provided in the Lease Deed states that the arbitration shall be held at Mumbai. In terms of the Judgment in **Brahmani River Pellets Limited (supra)**, the seat of the arbitration proceedings is to be held at Mumbai. However, in terms of the Judgment of the Supreme Court in the case of **M/s Ravi Ranjan Developers Pvt. Ltd. (supra)**, the cause of action having arisen in Assam and no cause of action having arisen in Mumbai, this Court would have the jurisdiction to decide an application under Section 11(6) of the 1996 Act. In the case of **BGS SGS SOMA JV (supra),** the Supreme Court held that when no seat is designated by the agreement or the so called seat is only a convenient venue, then there may

be several Courts where a part of the cause of action has arisen that may have jurisdiction. In the present case, the issue is whether the arbitration clause in the Lease Deed stating that the arbitration shall be held at Mumbai, can be said to be an express designation of Mumbai as the venue and seat of arbitration. In the case of **BBR (India) Private Limited (supra),** the Supreme Court held that the seat of arbitration need not be the place where any cause of action has arisen, in the sense that the seat of arbitration may be different from where the obligations has to be performed under the contract.

25. As the Arbitration Clause provides that the arbitration shall be held at Mumbai, this Court is of the view that the same is not only indicative of the "venue", but that the parties also intended to anchor arbitral proceedings to a particular place, signifying thereby that Mumbai was to be the "seat" of arbitral proceedings. As there is nothing in the Arbitration Clause providing that the place of cause of action could also be a place where the arbitral proceedings can be held, Mumbai is to be the "seat" for the arbitral proceedings. As the "seat" of arbitration has been determined in the present case, the place of cause of action will not determine the "seat" of arbitration. Further, as the arbitration clause has clearly spelt out that the arbitration shall be held at Mumbai, Mumbai is to be the "seat" of the arbitral proceedings in terms of the judgment of the four Judges Bench of the Supreme Court in **BBR (India) Private Limited (supra)** and the 3 Judges Bench in **BGS SGS SOMA JV (supra)**.

26. In view of reasons stated above, this Court is of the view that this Court does not have the jurisdiction to act upon the application made by the petitioner

under Section 11(6) of the 1996 Act and that it would be the Bombay High Court, that would be the Court having jurisdiction to decide the present application under Section 11(6) of the 1996 Act. The application is accordingly dismissed, with liberty being given to the parties to approach the Bombay High Court with their grievance.

JUDGE

Comparing Assistant