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IN THE HIGH COURT OF DELHI AT NEW DELHI

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EX.P. 67/2012

M/S RELIGARE FINVEST LIMITED Decree Holder
Through: Mr. S.S. Sobti, Advocate.

Versus

RANJIT SINGH CHOUHAN & ANR Judgment Debtors

CORAM: JUSTICE S. MURALIDHAR

ORDER
28.02.2012

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1. This is a petition under Section 36 of the Arbitration and Conciliation Act, 1996 ('Act') seeking the issuance of a precept to the Court of the learned District Judge, Bangalore, Karnataka where the assets/properties of the Judgment Debtors ('JDs') are stated to be situated. The alternative prayer is for a direction that the present execution petition be transferred to the Court of the learned District Judge, Bangalore, Karnataka.

2. In terms of the Award dated 10th October 2011 the JDs are liable to pay the Decree Holder ('DH') a sum of Rs.23,43,663.71 along with interest at 18% per annum with effect from 4th May 2010 till realisation. Rs.11,000/- has also been awarded to the DH as costs. The JDs are located at Bangalore,

Karnataka and their properties and assets are also located there.

3. Under the Act, the need for an Award to be made rule of the Court has been dispensed with. The Award is executable as a decree. In *Daelim Industrial Co. Ltd. v. Numaligarh Refinery Ltd. (2009) 3 Arb LR 524 (Del)*, this Court was dealing with an execution petition seeking enforcement of an Award which was announced at Calcutta, challenged first before the Court of the District Judge at Golaghat in Assam, and partly upheld by the High Court of Guwahati. The JD in that case argued that the Court which passed the decree would be the Court which had entertained the application under Section 34 of the Act, which was the District Court at Golaghat, and therefore an order of transfer of the decree from the District Court at Golaghat to this Court had to be obtained by the DH. The said objection was overruled by holding that the territorial jurisdiction for execution is determined by the locus of the JD or the property of the JD. It was explained that the Court which disposes of an application under Section 34 of the Act, is not required and does not pass any decree in terms of the Award as under the Arbitration Act, 1940. Since the Award itself is executable as a decree, the Court of the place where the property/money against which the decree is sought to be enforced is situated would have inherent jurisdiction to

entertain the execution.

4. The above view of this Court has been followed by the High Court of Madras in *Kotak Mahindra Bank Ltd. v. Sivakama Sundari S. Narayana S.B. Murthy (2011) 6 CTC 11*. That Court observed as under:

“25. In the Absence of any provision in the 1996 Act, requiring a Court to pass a decree in terms of the award (except in terms of Section 34) and in the absence of any provision in the 1996 Act making the Arbitral Tribunal a Court which passed the decree and in the absence of any provision anywhere making the court within whose jurisdiction an award was passed as the court which passed the decree, it is not open for any executing Court (i) either to demand transmission from any other Court; (ii) or to order transmission to any other Court.”

5. In the light of the above decisions, the prayer made in the present petition is declined. It will be open to the DH to approach the competent Court in Bangalore, Karnataka for execution of the Award in accordance with law.

6. The petition is disposed of.

Sd/-
S. MURALIDHAR, J

FEBRUARY 28, 2012

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