

Lit Corner

March 05, 2021

BOMBAY HIGH COURT PRONOUNCES LANDMARK RULING ON SEAT OF ARBITRATION

MATTER BRIEF

The Hon'ble Division Bench of the Bombay High Court in the case of *Aniket SA Investments LLC v. Janapriya Engineers Syndicate Private Limited* (Commercial Appeal No. 504 of 2019) pronounced a landmark decision on the interplay between the 'seat of arbitration' and an 'exclusive jurisdiction' clause.

Aniket SA Investments LLC (the original Petitioner) had filed a petition under Section 9 of the Arbitration and Conciliation Act, 1996 seeking certain interim reliefs. The arbitration agreement between the parties stipulated that the 'seat' of arbitration was Mumbai. The governing law and jurisdiction clause specified that 'subject to' the arbitration clause, the courts of Hyderabad shall have exclusive jurisdiction to try and entertain any disputes arising out of the agreement. The Learned Single Judge of the Bombay High Court had dismissed the petition by holding that the courts at Hyderabad would have jurisdiction to hear applications arising out of the arbitration.

Aniket SA Investments LLC appealed this decision. The Hon'ble Division Bench allowed the appeal and held that:

- A choice of seat is in itself an expression of party autonomy and carries with it the effect of conferring exclusive jurisdiction on the courts of the seat.
- The choice of court at Hyderabad has clearly been made 'subject to' the arbitration clause. The plain language of the arbitration clause states that Mumbai is the chosen seat of arbitration. Therefore, the courts in Mumbai would have exclusive jurisdiction.
- Further, even if it was to be interpreted that two concurrent courts would have jurisdiction, the choice of courts at Hyderabad is made 'subject to' the seat at Mumbai, which amounts to a choice of courts at Mumbai.

The Hon'ble Division Bench set aside the order of the Learned Single Judge and directed that the Section 9 petition can proceed on merits before the Bombay High Court.

OUR ROLE

We, at **Nishith Desai Associates**, successfully acted as the legal counsel to Aniket SA Investments LLC, the original petitioner and appellant in this matter.

The judgment of the Hon'ble Bombay High Court is available [here](#).

— Bhavana Sunder, Alipak Banerjee & Vyapak Desai
You can direct your queries or comments to the authors

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