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AA-35-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

ON THE 14th OF OCTOBER, 2026ARBITRATION APPEAL No. 35 of 2025

CNR No.: MPHC010173272025

*DEEPAK SAINANI**Versus**ANGEL BROKING LTD.*

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Appearance:

Shri Sanjay K. Agrawal, learned Senior Advocate along with
Shri Arjun Bajpai, learned counsel for the appellant.

Shri Naman Nagrath, learned Senior Advocate along with Shri Alkesh
Agrawal, learned counsel for the respondent.

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ORDER

This arbitration appeal is filed by the appellant, being aggrieved of the order dated 19.12.2024 passed by the Principal District Judge, Betul, District Betul, in Case No. 04/2024, on the ground that an application was filed under Section 34 of the Arbitration and Conciliation Act, 1996, being aggrieved of the award dated 11.12.2020 and that has been entertained without jurisdiction.

2. The singular issue which has been raised herein is that, since the Commercial Court at Bhopal was already notified in terms of the provisions contained in Section 3 of the Commercial Courts Act, 2015, having jurisdiction over the subject matters arising out of the District of Betul also,



the Principal District Judge, Betul, should have returned the application and should not have entertained it. Reliance is placed on the judgment of the Supreme Court in *Harshad Chiman Lal Modi Vs. DLF Universal Ltd. and another*, reported in (2005) 7 SCC 791, and, referring to paragraph 30, it is submitted that the Supreme Court has observed as under:

"30. We are unable to upload the contention. The jurisdiction of a Court may be classified into several categories. The important categories are (i) territorial or local jurisdiction; (ii) pecuniary jurisdiction; and (iii) jurisdiction over the subject-matter. So far as territorial and pecuniary jurisdictions are concerned, objection to such jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement issues. The law is well settled on the point that if such objection is not taken taken at the earliest, it cannot be allowed to be taken at a subsequent stage. Jurisdiction as to subject-matter, however, is totally distinct and stands on a different footing. Where a Court has no jurisdiction over the subject-matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take up the cause or matter. An order passed by a Court having no jurisdiction is a nullity."

3. Thus, it is submitted that where a Court has no jurisdiction over the subject matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take up the cause or matter. An order passed by a Court having no jurisdiction is a nullity. Thus, it is submitted that the order dated 19.12.2024, being a nullity, cannot be sustained in the eyes of law, and thus, the application be declared to be returned today and the parties be left to adopt an appropriate course of action as may be available to them under law.

4. Initially, Shri Naman Nagrath, learned Senior Advocate, assisted by Shri Alkesh Agrawal, opposes the prayer and submits that if a party has, on its own, chosen a wrong forum, it cannot take advantage of its own wrong. It



is also submitted that, after having suffered an adverse order, the appellant cannot wriggle out and say that the Court at Betul has no jurisdiction. It is also submitted that there will be consequences of limitation, etc., if, at this stage, the application is deemed to have been returned to the appellant. Another objection is raised by the respondent that under Order VII Rule X of the CPC, return of the application could have been ordered only at any stage of the suit, and once it was decreed, there was no question for any such order.

5. After hearing learned counsel for the parties and going through the record.

6. Since there is no dispute in regard to the fact that, in terms of the provisions contained in Section 3 of the Commercial Courts Act, 2015, a designated Commercial Court was notified, even for disputes arising in and out of the territorial jurisdiction of Betul, admittedly, the Principal District Judge at Betul had no jurisdiction to hear and decide the matter.

7. So far as the plea of not permitting return is concerned, as raised by Shri Nagrath, the Explanation below Order VII Rule X(1) of the CPC provides that “for the removal of doubts, it is hereby declared that a Court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaint under this sub-rule”. Thus, when this Explanation is taken into consideration, as was inserted by Act 10 of 1976 with effect from 01.02.1977, I am of the opinion that once the order of the Principal District Judge, Betul, is a nullity in terms of the judgment of the Supreme Court in Harshad Chiman Lal (supra), that order is not only required to be set aside,



but the application can also be returned in terms of the Explanation given below Order VII Rule X(1) of the CPC.

8. Accordingly, the impugned order dated 19.12.2024 is set aside. Application under Section 34 of Arbitration and Conciliation Act is returned today. The parties are free to adopt such course as may be available to them under the law.

9. This Court has not expressed any opinion on the merits of the claim of either party.

(VIVEK AGARWAL)
JUDGE

RS