

ITEM NO.61

COURT NO.9

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 4654/2022

(Arising out of impugned final judgment and order dated 10-12-2021 in MUA227 No. 7330/2021 passed by the High Court Of Judicature At Allahabad)

M/S CHOPRA FABRICATORS AND MANUFACTURERS PVT. LTD. Petitioner(s)

VERSUS

BHARAT PUMPS AND COMPRESSORS LTD. & ANR.

Respondent(s)

Date : 17-08-2022 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Rakesh U. Upadhyay, Adv.
Ms. Aarti Upadhyay Mishra, AOR
Mr. Rishabh Kumar Pandey, Adv.
Mr. Mridul Singh Vats, Adv.

Mr. Pawanshree Agrawal, AOR

For Respondent(s) Ms. Garima Prasad, Sr. Adv./AAG
Mr. Pradeep Misra, AOR
Mr. Suraj Singh, Adv.

Mr. Yashvardhan, Adv.
Mr. Apoorv Shukla, AOR
Ms. Smita Kant, Adv.
Ms. Ishita Farsaiya, Adv.
Ms. Prabhleen Kaur, Adv.

Mr. Nitin Mishra, AOR

UPON hearing the Counsel the Court made the following

ORDER

It is pointed out by Ms. Garima Prasad, learned Senior Advocate/AAG, appearing on behalf of the State of U.P. that 4 Additional Commercial Courts are established having jurisdiction over respective Districts as per the original Notification of

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Natarajan
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22.10.2017.

Learned counsel appearing on behalf of the High Court and even the Registrar General, who is present in the Court, is not in a

position to point out as to how many commercial cases are pending in the Commercial Courts at Meerut, Gautam Buddha Nagar, Agra and Lucknow and the respective Districts over which the aforesaid Commercial Courts, namely, Meerut, Gautam Buddha Nagar, Agra and Lucknow have jurisdiction. According to learned counsel for the High Court, the cases which are filed under the Arbitration Act prior to the establishment of the Commercial Courts Act are not transferred to the Commercial Courts and the jurisdiction is continued with the regular courts. *Prima facie* not transferring the pending arbitration matters/commercial cases to the concerned Commercial Courts can be said to be contrary to Section 15 of the Commercial Courts Act. Section 15 of the Commercial Courts Act deals with respect to transfer of pending cases, which reads as under:-

"15. Transfer of pending cases.- (1) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of Specified Value pending in a High Court where a Commercial Division has been constituted, shall be transferred to the Commercial Division.

(2) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of a Specified Value pending in any civil court in any district or area in respect of which a Commercial Court has been constituted, shall be transferred to such Commercial Court:

Provided that no suit or application where the final judgment has been reserved by the Court prior to the constitution of the Commercial Division or the Commercial Court shall be transferred either under sub-section (1) or sub-section (2).

(3) Where any suit or application, including an application under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of Specified Value shall stand transferred to the Commercial Division or Commercial Court under sub-section (1) or sub-

section (2), the provisions of this Act shall apply to those procedures that were not complete at the time of transfer.

(4) The Commercial Division or Commercial Court, as the case may be, may hold case management hearings in respect of such transferred suit or application in order to prescribe new timelines or issue such further directions as may be necessary for a speedy and efficacious disposal of such suit or application in accordance with Order XV-A of the Code of Civil Procedure, 1908 (5 of 1908):

Provided that the proviso to sub-rule (1) of Rule 1 of Order V of the Code of Civil Procedure, 1908 (5 of 1908) shall not apply to such transferred suit or application and the court may, in its discretion, prescribe a new time period within which the written statement shall be filed.

(5) In the event that such suit or application is not transferred in the manner specified in sub-section (1), sub-section (2) or sub-section (3), the Commercial Appellate Division of the High Court may, on the application of any of the parties to the suit, withdraw such suit or application from the court before which it is pending and transfer the same for trial or disposal to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding."

Let the High Court look into the same and respond on the aforesaid. Before the next date of hearing, the Registrar General of the High Court to file the specific affidavit pointing out the pendency of commercial cases/arbitration cases either by way of execution petitions or Section 34 of the Arbitration Act under Act, 1940 or under the 1996 Act in the respective Commercial Courts originally constituted, more particularly, the pendency in the Commercial Courts at Meerut, Gautam Buddha Nagar, Agra and Lucknow and the concerned Districts over which the aforesaid 4 Commercial Courts would have jurisdiction.

Put up on 30.08.2022.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(BEENA JOLLY)
COURT MASTER (NSH)