Merger of Cause of Action into a Foreign Arbitral Award: A Case Note on Campos Brothers Farms v. Matru Bhumi Supply Chain Pvt. Limited & Ors.

Background

The judgment in *Campos Brothers Farms v. Matru Bhumi Supply Chain Pvt. Limited & Ors*[1]. was delivered by the Delhi High Court (**"Court"**) in an appeal preferred by Campos Brothers Farms (**"Appellant"**) against the judgment dated 03 October 2024 (**"Impugned Judgment"**) passed by the learned Single Judge of the Court. The core question before the Court was whether a civil suit can be rejected under Order VII Rule 11 of the Code of Civil Procedure, 1908 (**"CPC"**) on the premise that the cause of action has merged into a foreign arbitral award. The question arose in a context where such award had neither attained enforceability under Part II of the Arbitration and Conciliation Act, 1996 (**"Act"**) nor resulted in a decree of an Indian court.

The Appellant, a US-based entity, entered into four separate contracts in 2015 with Matru Bhumi Supply Chain Pvt. Limited (**"Respondent No. 1"**) and Indraprastha Ice & Cold Storage Pvt. Ltd. (**"Respondent No. 2"**) for the supply of Non-Pareil In-Shell Almonds. All four contracts incorporated the Uniform Almond Export Contract, 2007, which provided for arbitration as the dispute resolution mechanism with the seat of arbitration in London. The Appellant alleged that despite supply of the goods, the entire consideration remained unpaid. Since disputes persisted, the Appellant invoked the arbitration clause. Respondent No. 1 and Respondent No. 2 (**"Respondents"**) denied the existence of any arbitration agreement and declined to appoint an arbitrator. After affording several opportunities to the Respondents, the sole arbitrator proceeded with the arbitration and rendered an award (**"Award"**) in favour of the Appellant. The Award was not challenged on merits before the Court at the Seat of Arbitration in London.

The Appellant thereafter sought enforcement of the Award in India vide a petition under Sections 48 and 49 of the Act. Vide order dated 02 May 2019, the enforcement petition was dismissed by the learned Single Judge of the Court on two grounds. First, that the Respondents had filed their submissions within the time granted by the learned Sole Arbitrator, but the said submissions were excluded by the Sole Arbitrator without recording any finding as to why they

[1] Campos Brothers Farms v. Matru Bhumi Supply Chain Pvt. Limited & Ors., 2026 SCC OnLine Del 2635

were being disregarded. This rendered the Award violative of principles of natural justice and contrary to public policy of India under Section 48(2)(b) of the Act. Second, that the Appellant had entered into three separate contracts with Respondent No. 1 and one independent contract with Respondent No. 2, constituting distinct transactions between separate corporate entities. The Appellant had consolidated proceedings arising out of all four contracts into a single arbitration without lifting the corporate veil or assigning any reasons for fastening joint and several liability upon Respondent No. 1 and Respondent No. 2, thereby rendering the Award a non-speaking one, incapable of enforcement in India. The order dated 02 May 2019 was thereafter challenged by the Appellant in appeal before the Court, which was stated to be pending consideration.

In the alternative, and to safeguard its claim from being rendered time-barred in the event enforcement was not allowed, the Appellant instituted a civil suit for recovery of amounts due under the contracts. The Appellant clarified that in the event enforcement succeeded, it may not proceed further with the suit. Respondent No. 1 raised a challenge to the maintainability of the suit on three grounds. First, the suit was barred by *res judicata* in view of the Award, since all claims referred to arbitration merge into the arbitral award and no fresh action can be maintained on the original cause of action after an award is pronounced. Second, having elected to seek enforcement of the Award, the Appellant could not simultaneously maintain a suit on the original cause of action. Third, the simultaneous pursuit of the suit and the enforcement proceedings in respect of the same cause of action amounted to an abuse of process and would lead to multiplicity of proceedings.

In the Impugned Judgment, the learned Single Judge of the Court held that under the Act a foreign arbitral award is a deemed decree. Since neither party had challenged the Award on merits before the Court at the seat of arbitration in London, which exercises supervisory or primary jurisdiction over the Award, the learned Single Judge held that the Award had attained finality on merits and became binding. It was held that the cause of action forming the basis of the suit had merged into the Award and did not survive to enable the institution of a fresh suit on the same cause of action in India, and dismissed the suit as not maintainable.

The Appellant contended before the Court that the Award had not attained enforceability under Sections 48 and 49 of the Act, and that an unenforceable foreign award cannot by itself extinguish the underlying cause of action since it has failed to secure any recovery in favour of the claimant. It was further contended that the doctrine of *res judicata* had no application in the absence of an enforceable and final award.

The Respondents contended that as per Section 46 of the Act a foreign award is binding on the parties and the cause of action stood merged into the award. The institution of the civil suit amounted to parallel proceedings constituting an abuse of process and that the principles of *res judicata* were attracted since the disputes had already been adjudicated in the foreign arbitral proceedings.

Analysis

The Court held that the power to reject a plaint under Order VII Rule 11 of the CPC is circumscribed by the specific grounds enumerated under clauses (a) to (f) of Order VII Rule 11 of CPC. The ground of merger of cause of action into a foreign arbitral award finds no place in any of those clauses. While the plea of merger, being analogous to *res judicata*, could in a given case fall within the ambit of a bar by law under clause (d) of Order VII Rule 11, the learned Single Judge had neither recorded a finding to that effect nor examined whether the necessary ingredients for such a bar were satisfied. In the absence of such determination, the rejection of the plaint could not be sustained.

The Court further held that the Act does not absolutely exclude the jurisdiction of civil courts to adjudicate civil disputes merely because the parties were governed by an arbitration agreement. The jurisdiction of civil courts is plenary, with any exclusion thereof to be strictly construed. On this basis, the Court held that where a foreign arbitral award is rendered but found to be unenforceable in India, the party in whose favour such award was passed is entitled to institute a civil suit to enforce its substantive rights. The cause of action for recovery does not cease to exist merely because a foreign arbitral award has been passed, particularly when such award has been held unenforceable.

On the contention based on Section 46 of the Act, the Court held that while Section 46 provides that a foreign award shall be binding on the parties, the expression "binding" cannot be read in isolation so as to confer enforceability upon a foreign award which has not satisfied the requirements of Sections 48 and 49 of the Act. Binding effect under Section 46 does not dispense with the statutory requirement of enforceability. The Court observed that Respondent No. 1 had itself taken the stand that the Award was not enforceable in India. Having done so, it was not open to Respondent No. 1 to simultaneously contend that the cause of action had merged into the Award so as to non-suit the Appellant at the threshold.

The Court while rejecting the submission that the institution of the suit amount to an abuse of process, held that abuse of process is not a ground enumerated under Order VII Rule 11 of the CPC, and that the Appellant was constrained to pursue parallel remedies to safeguard its claim from being rendered time-barred. The Court set aside the Impugned Judgment and restored the suit to its original number.

Conclusion

The judgment in *Campos Brothers Farms v. Matru Bhumi Supply Chain Pvt. Limited & Ors.* clarifies that the doctrine of merger of cause of action into an arbitral award cannot be invoked to defeat a plaintiff's suit at the threshold where the foreign arbitral award has not attained enforceability in India under Sections 48 and 49 of the Act. The binding effect of a foreign award under Section 46 of the Act is distinct from its enforceability, and an unenforceable foreign award cannot extinguish the underlying civil cause of action. The decision reinforces that the jurisdiction of civil courts is plenary and that any bar to such jurisdiction must be strictly established.