

# Betamax Limited vs State Trading Corporation on 17 January, 2020

**Bench: Rohinton Fali Nariman, S. Ravindra Bhat**

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 368-369 OF 2020  
(Arising out of SLP (C) No. 11639-11640/2019)

BETAMAX LIMITED

Appellant(s)

VERSUS

STATE TRADING CORPORATION & ANR.

Respondent(s)

O R D E R

- 1) Leave granted.
- 2) The impugned judgment dated 24.04.2019 has ultimately decided

that since “Court” is defined in Section 2(1)(e) of the Arbitration and Conciliation Act, 1996 and as the 2015 Amendment Act does not apply to the facts of this case, the old definition of “Court” would make it clear that the High Court as well as the Principal District Judge at Mangalore would have jurisdiction. The impugned order then went on to state that this being so, it should go to the Principal District Judge and not the High Court.

3) Unfortunately, a direct binding judgment of this Court has been missed. This Court in *State of West Bengal and Others vs. Associated Contractors*, (2015) 1 SCC 32 has clearly laid down the law as it obtained prior to the 2015 Amendment Act as follows:-

“15. A recent judgment of this Hon’ble Court reported in *State of Maharashtra v. Atlanta Limited*, AIR 2014 SC 1093 has taken the view that Section 2(1)(e) contains a scheme different from that contained in Section 15 of the Code of Civil Procedure. Section 15 requires all suits to be filed in the lowest grade of court. This Hon’ble Court has construed Section 2(1)(e) and said that where a High Court exercises ordinary original civil jurisdiction over a district, the High Court will have preference to the Principal Civil Court of original jurisdiction in that district. In that case, one of the parties moved an application under Section 34 before the District Judge, Thane.

On the same day, the opposite party moved an application before the High Court of Bombay for setting aside some of the directions contained in the Award. In the circumstances, it was decided that the “court” for the purpose of Section 42 would be the High Court and not the District Court. Several reasons were given for this. Firstly, the very inclusion of the High Court in the definition would be rendered nugatory if the above conclusion was not to be accepted, because the Principal Civil Court of original jurisdiction in a district is always a court lower in grade than the High Court, and such District Judge being lower in grade than the High Court would always exclude the High Court from adjudicating upon the matter. Secondly, the provisions of the Arbitration Act leave no room for any doubt that it is the superior most court exercising original jurisdiction which has been chosen to adjudicate disputes arising out of arbitration agreements. We respectfully concur with the reasoning contained in this judgment.”

4) In this view of the matter, the impugned judgment is set aside and the Section 34 proceeding is transferred to a single Judge of the High Court.

5) The appeals are disposed of accordingly.

..... J.

(ROHINTON FALI NARIMAN) ..... J.

(S. RAVINDRA BHAT) New Delhi;

January 17, 2020.

ITEM NO.46

COURT NO.4

SECTION IV-A

S U P R E M E C O U R T O F  
RECORD OF PROCEEDINGS

I N D I A

Petition(s) for Special Leave to Appeal (C) No(s). 11639-11640/2019

(Arising out of impugned final judgment and order dated 24-04-2019 in AP.IM No. 5/2017 24-04-2019 in A.P.EFA No. 3/2017 passed by the High Court Of Karnataka At Bengaluru) BETAMAX LIMITED Petitioner(s) VERSUS STATE TRADING CORPORATION & ANR. Respondent(s) (FOR ADMISSION IA No. 91546/2019 - APPLICATION FOR VACATION OF INTERIM ORDER IA No. 94502/2019 - APPROPRIATE ORDERS/DIRECTIONS IA No. 91732/2019 - CLARIFICATION/DIRECTION IA No. 91545/2019 - INTERVENTION APPLICATION IA No. 75643/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES) Date : 17-01-2020 These matters were called on for hearing today. CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN HON'BLE MR. JUSTICE S.  
RAVINDRA BHAT For Petitioner(s) Mr. Tejas Karia, Adv.

Ms. Avlokita Rajvi, Adv.

Mr. S. S. Shroff, AOR For Respondent(s) Hiroo Advani, Adv.

Mr. Divyakant Lahoti, AOR Ms. Madhur Jhavar, Adv.

Mr. Parikshit Ahuja, Adv.

Mr. Tariq Khan, Adv.

Ms. Amrita Grover, Adv.

Ms. Praveena Bisht, Adv.

Mr. Kartik Lahoti, Adv.

Mr. Arvind Gupta, AOR Mr. Saswat Pattnaik, Adv.

Mr. Hasan Murtaza, AOR UPON hearing the counsel the Court made the following O  
R D E R Leave granted.

The appeals are disposed of in terms of the signed order.

Pending applications also stand disposed of.

(R. NATARAJAN)  
COURT MASTER (SH)

(NISHA TRIPATHI)  
BRANCH OFFICER

(Signed order is placed on the file)