

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.359 of 2022

Independent Media Corporation (Pvt.) Limited

Versus

Senior Civil Judge (West), Islamabad and others

Date of Hearing: 01.03.2022

Petitioner by: Mr. Bahzad Haider, Advocate

Respondents by: Barrister Saad Shuaib Wyne and Wasi
Ullah Khan Surrani, Advocate for
respondents No.2 and 3

MIANGUL HASSAN AURANGZEB, J:- Through the instant writ petition, the petitioner, Independent Media Corporation (Pvt.) Limited, impugns the order dated 18.01.2022, whereby the learned Civil Court spurned the petitioner's objections that subject matter of the */is* was beyond its pecuniary jurisdiction and held that it had the jurisdiction to decide the petitioner's objections under Sections 30 and 33 of the Arbitration Act, 1940 ("**the 1940 Act**") to the arbitration award dated 08.10.2021 as well as respondents No.2 and 3's application under Section 17 of the said Act praying for the said award to be made a Rule of Court.

2. The facts essential for the disposal of the instant petition are that an agreement dated 18.03.2013 executed between the petitioner on the one hand, and respondents No.2 and 3 on the other, contained an arbitration clause providing for disputes and differences arising from and related to the said agreement to be referred to arbitration under the provisions of the 1940 Act. After disputes and differences arose between the said parties, respondents No.2 and 3 filed an application on 02.06.2018 under Section 8 of the 1940 Act before the learned Civil Court praying for the appointment of an arbitrator. Vide order dated 04.03.2019, the learned Civil Court appointed Mr. Mudassar Khalid Abbasi, Advocate, as the sole arbitrator and adjourned the matter to 04.07.2019 for the "*report of arbitrator.*" For the purposes of clarity, the operative part of the said order dated 04.03.2019 is reproduced herein below:-

“The execution of agreement and existence of Arbitration Clause therein has been admitted by the respondent / Independent Media (I.M.C.). The pleadings of the parties clearly show differences between them with regard to Head of Terms Agreement and Joint Venture Agreements. The applicant / plaintiff has issued notices for commencement of Arbitration and appointment of Arbitrator without appointing his Arbitrator. The notice has not been denied by the respondent in its written reply. The respondent had mainly raised the objection regarding venue of Arbitration, which was separately decided on the application of respondent on 02.02.2019. The plaintiff / applicant has fulfilled the requirements of appointment of Arbitrator through court as envisaged under Clause (i)(a) of Section 8 of the Arbitration Act. Therefore, the application is accepted. Mr. Muddasar Khalid Abbasi is hereby appointed as sole Arbitrator, who shall decide the differences arisen between the parties, out of the Head of Terms Agreement and its subsidiary Agreements as per Arbitration Act within a period of four months. The remuneration of Arbitrator is fixed Rs.10,00,000/-, which shall be borne by both the parties equally, as cost of Arbitration. Copies of relevant record be sent to the learned Arbitrator alongwith the reference. The case is adjourned to 04.07.2019 for report of Arbitrator. Application is decided accordingly.”

(Emphasis added)

3. The learned Civil Court had allowed the learned arbitrator's application for an extension in time for rendering the award. The arbitration award was rendered on 08.10.2021 and the same was filed on the said date before the learned Civil Court by the learned arbitrator.

4. On 20.10.2021, respondents No.2 and 3 filed an application under Section 17 of the 1940 Act to make the award a Rule of Court. On 04.11.2021, the petitioner filed objections to the said award under Sections 30 and 33 of the said Act. The petitioner also raised an objection to the effect that the learned Civil Court did not have the pecuniary jurisdiction to receive the award or to entertain the application to make the award a Rule of Court. Vide impugned order dated 18.01.2022, the learned Civil Court turned down the petitioner's said objection and adjourned the matter to decide the remaining objections taken by the petitioner to the arbitration award. The said order dated 18.01.2022 has been assailed by the petitioner in the instant writ petition.

5. Learned counsel for the petitioner, after narrating the facts leading to the filing of the instant petition, submitted that respondents No.2 and 3's application under Section 8 of the 1940 Act did not

contain a valuation clause; that the claim of respondents No.2 and 3 against the petitioner was for an amount in excess of Rs.50 million; that Section 7(x)(d) of the Court Fees Act, 1870 provides that the amount of fee payable in a suit for specific performance of an award is to be determined according to the amount or value of the property in dispute; that Section 8 of the Suits Valuation Act, 1887 provides that where in suits (other than those referred to in the Court Fees Act, 1870, Section 7, paragraphs v and vi and paragraph x, clause (d)), the Court fees are payable *ad valorem* under the Court Fees Act, 1870, the value as determinable for the computation of Court fees and the value for the purposes of jurisdiction shall be the same; that on account of the said provisions, the value of the proceedings for enforcing the arbitration award was more than Rs.50 million and therefore beyond the pecuniary jurisdiction of the learned Civil Court; and that the learned Civil Court erred by holding that since the matter had been referred to arbitration by the learned Civil Court, the award had to be filed in the same Court in terms of Section 159 of the C.P.C. which saved all proceedings instituted prior to the enactment of the Code of Civil Procedure (Amendment) Act, 2020 (“the 2020 Act”) and had to be dealt with in accordance with the provisions of the C.P.C. as it existed prior to the said amendment. The learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

6. On the other hand, the learned counsel for respondents No.2 and 3 submitted that since the learned Civil Court vide order dated 04.03.2019 had appointed an arbitrator and had referred the matter to arbitration, the arbitration award had to be filed before the same Court which had referred the matter to arbitration; that when the order for reference to arbitration was made (on 04.03.2019), the 2020 Act had not been enacted; that although the pecuniary jurisdiction of a Civil Court was limited to cases where the amount or value of the subject matter of the suit is below Rs.50 million, Section 159 of the 2020 Act provides that all proceedings instituted prior to the enactment of the 2020 Act shall be deemed to proceed and dealt with in accordance with the provisions of the C.P.C. which existed prior to

the enactment of the 2020 Act; and that since the application under Section 8 of the 1940 Act was allowed prior to the enactment of the 2020 Act, the application to make the arbitration award a rule of Court and the objections to the said award would be considered as proceedings instituted prior to the enactment of the 2020 Act and therefore, are to be dealt with by the learned Civil Court. The learned counsel for respondents No.2 and 3 prayed for the writ petition to be dismissed.

7. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance. The facts leading to the filing of the instant petition have been set out in sufficient detail in paragraphs 2 to 4 above, and need not be recapitulated.

8. The learned Civil Court vide order dated 04.03.2019 allowed respondents No.2 and 3's application under Section 8 of the 1940 Act by appointing a sole arbitrator. The learned Civil Court also went ahead and directed the arbitrator to *"decide the differences arisen between the parties, out of the Head of Terms Agreement and its subsidiary Agreements as per Arbitration Act within a period of four months."* Copies of the relevant record was directed to be sent to the learned arbitrator along with the reference. The case was adjourned to 04.07.2019 for *"report of Arbitrator."*

9. The award was rendered on 08.10.2021 and filed in the Court by the learned arbitrator on the same day. One of the objections taken by the petitioner in its application under Sections 30 and 33 of the 1940 Act seeking for the award to be set aside was that the learned Civil Court did not have the jurisdiction *"to entertain, to consider and to make the award as rule of Court."* The petitioner sought for the said objection to the learned Civil Court's jurisdiction to be decided at the earliest.

10. It is not disputed that when the order for the appointment of the arbitrator was passed, the matter lay within the pecuniary jurisdiction of the learned Civil Court. Thereafter, the Code of Civil Procedure (Amendment) Act, 2020 was enacted on 18.02.2020, Section 6(b) whereof provides *inter alia* that *"where the amount or value of the*

subject matter of the suit is above rupees fifty million, the suit shall be filed in the court of District Judge.” It is on this basis that the petitioner asserts that since the award was for an amount in excess of Rs.50 million, the learned Civil Court did not have the pecuniary jurisdiction to receive the award or to entertain the application to make the award a Rule of Court.

11. The learned Civil Court turned down the petitioner’s said objection by holding that the arbitration proceedings were initiated and continued through orders passed by the said Court and that Section 159 of the C.P.C. (inserted through Section 19 of the Code of Civil Procedure (Amendment) Act, 2020) mandated that all proceedings instituted prior to enactment of the Code of Civil Procedure (Amendment) Act, 2020 shall be deemed to proceed and be dealt with in accordance with the provisions of the C.P.C. which existed prior to the enactment of the 2020 Act. It was also held that the arbitration proceedings had been initiated by the Civil Court *“and continued in the shape of extension of time to the learned arbitrator for concluding the arbitration proceedings.”* For the purposes of clarity, the operative part of the said order dated 18.01.2022 is reproduced herein below:-

“4. Be that as it may, the Arbitration proceedings were initiated by this court on the application filed by the applicants u/s 8 of the Arbitration Act 1940 and the learned Arbitrator was appointed vide order dated 04.03.2019 and adjourned the petition for submission of the reference by the learned Arbitrator on 04.07.2019. Thereafter, the Award was filed before this court on 08.10.2021, so also, the objection petition was filed by the respondent alongwith application u/s 14(2) of the Arbitration Act with the prayer to direct the learned Arbitrator to provide synopsis of his arguments submitted before the learned Arbitrator, which reflects that the arbitration proceedings have been initiated from this Court and continued in the shape of extension of time to the learned Arbitrator for concluding arbitration proceedings. Therefore, such objection merits no consideration, hence, the same is decided accordingly and the matter is adjourned for hearing and orders on application u/s 14(2) of Arbitration Act with last chance as well as remaining objections on 31.01.2022.”

(Emphasis added)

12. The crucial question that needs to be answered is whether the arbitration proceedings culminating in the award dated 08.10.2021 and proceedings after the filing of the award before the learned Civil Court could be treated as a continuation of the proceedings pursuant

to the application under Section 8 of the 1940 Act for the appointment of an arbitrator.

13. Under the scheme of the 1940 Act, Section 8 occurs in Chapter II of which the heading is “*Arbitration without intervention of a Court.*”

Section 8 of the 1940 Act reads thus:-

“8. Power of Court to appoint arbitrator or umpire.-- (1) In any of the following cases--

- (a) where an arbitration agreement provides that the reference shall be to one or more arbitrators to be appointed by consent of the parties, and all the parties do not, after differences have arisen, concur in the appointment or appointments; or*
- (b) if any appointed arbitrator or umpire neglects or refuses to act, or is incapable of acting, or dies, and the arbitration agreement does not show that it was intended that the vacancy should not be supplied, and the parties or the arbitrators, as the case may be, do not supply the vacancy; or*
- (c) where the parties or the arbitrators are required to appoint an umpire and do not appoint him;*

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to concur in the appointment or appointments or in supplying the vacancy.

(2) If the appointment is not made within fifteen clear days after the service of the said notice, the Court may, on the application of the party who gave the notice and after giving the other parties an opportunity of being heard, appoint an arbitrator or arbitrators or umpire, as the case may be, who shall have like power to act in the reference and to make an award as if he or they had been appointed by consent of all parties.”

14. This Section provides machinery for efficient enforcement of arbitration agreements and confers upon the Court the power to appoint an arbitrator or umpire, as the case may be. The provisions of this Section can be brought into operation only:-

- (a) When there is a valid arbitration agreement.
- (b) There is provision in the arbitration agreement for the appointment of one or more arbitrators.
- (c) The arbitrator is or arbitrators are to be appointed with the consent of all the parties.
- (d) There are disputes and differences that have arisen between the parties to the arbitration agreement.
- (e) The parties do not concur in the appointment or appointments (Sub-section (a) of Section 8 (1))

or

- (a) Where appointed arbitrator or umpire,
 - (i) neglects,
 - (ii) refuses to act,
 - (iii) is incapable of acting,
 - (iv) or is dead
- (b) The arbitration agreement contemplates that the vacancy should be supplied,
- (c) The parties or the arbitrator, as the case may be, do not supply the vacancy

(Sub-section (b) of section 8(1))

or

to appoint an umpire and do not appoint an umpire

(Sub-section (c) of Section 8(1))

In any of the aforementioned contingencies, any party may serve the other party with,

- (a) Written notice to concur in the appointment **(Section 8(1)(a))**
- (b) Concur in supplying the vacancy **(Section 8(1)(b))**.
- (c) Service should be effected in the manner provided for in Section 42 i.e., by handing over the notice to the party to be served or through post.
- (d) A period of clear 15 days should be given to the other party for concurring in the appointment or supplying the vacancy.

15. If the requisition is not complied with, a party may move an application before the Court under Section 8 for appointment of an arbitrator or arbitrators, or umpire, as the case may be, or for supplying the vacancy. The Court then has to give the other party an opportunity of being heard and the Court may appoint an arbitrator or arbitrators or umpire, as the case may be. The arbitrator or arbitrators or umpire appointed by the Court will have all the powers as if they were appointed by the parties themselves.

16. Where one of the parties refuses to concur in the appointment of an arbitrator, the other party has the option either to move the Court under Section 8 or Section 20. Section 20 falls in Chapter III of the

1940 Act of which the heading is “Arbitration with intervention of a Court where there is no suit pending.” Section 20 entitles a party to an arbitration agreement to apply to a Court for the filing of the agreement in Court, and the Court is required, in absence of sufficient cause shown by the other parties, to order the agreement to be filed and to *“make an order of reference to the arbitrator appointed by the parties, whether in the agreement or otherwise, or, where the parties cannot agree upon an arbitrator, to an arbitrator appointed by the Court.”* Under Section 20(4) the Court compulsorily has to refer the dispute to the arbitrator appointed by the parties and it is only where the parties have not appointed any particular person or authority to act as arbitrator that the Court can appoint an arbitrator of its choice and refer the dispute to him. The power of the Court to make a reference to arbitration is contained in Section 20. Without an application under Section 20 of the 1940 Act, the Court has no jurisdiction to refer the dispute to arbitration. The only exception to this is the power of the Court under Section 21 of the 1940 Act to make an order of reference in a pending suit where all the parties agree that any matter in difference between them in the suit be referred to arbitration.

17. Section 8 confers power upon the Court to appoint an arbitrator where the parties do not concur in the appointment of an arbitrator. Section 8 does not contain any provision empowering the Court to make an order of reference to the arbitrator. There is nothing in Section 8 from which the power of the Court to make a reference to arbitration can be spelled out. After appointing an arbitrator under Section 8, the Court ceases to have jurisdiction and cannot make an order of reference. Where the Court appoints the arbitrator under Section 8, it is the parties who refer the dispute to him. Once the Court appoints an arbitrator, the matters in dispute between the parties can be referred to arbitration by resort to arbitration without the intervention of the Court (i.e., under Chapter II of the 1940 Act). An order of reference made by the Court while disposing of an application under Section 8 is without lawful authority. With the appointment of an arbitrator under Section 8, the Court becomes

functus officio and no longer in seisin of the *lis* or proceedings before the arbitrator. Reference in this regard may be made to the following case law:-

- (i) In the case of Union of India Vs. Om Parkash (AIR 1976 SC 1745), the question that came to be considered by the Supreme Court of India was whether the Court, after having appointed an arbitrator under Section 8 of the 1940 Act, could also make an order of reference to the arbitrator. It was held as follows:-

“Section 8 does not contain any provision empowering the court to make an order of reference to the arbitrator as one finds in subsection (4) of Section 20. Thus it seems clear that the court in the instant cases had no jurisdiction, after appointing an arbitrator under Section 8(2), to proceed further to make an order referring the disputes to the arbitrator.”

The Supreme Court of India had upheld the judgment of the Allahabad High Court, reported as Om Parkash Vs. Union of India (AIR 1963 Allahabad 242) wherein it was held that the Court became *functus officio* after appointing the arbitrator under Section 8(2) and had no jurisdiction to refer the cases to the arbitrator. The High Court had taken the view that it was for the parties to refer their disputes to the arbitrator after he was appointed by the Court. Upon a consideration of the provisions of Section 8, the High Court observed that the effect of the appointment of the arbitrator by the Court was that:-

5. ... he was considered to be an arbitrator appointed by the parties themselves. It was then for the parties to refer their disputes to the arbitrator. Reference in such a case must be out of Court and must be by both the parties together. Reference out of Court cannot be by one party alone. ... The order of the Court referring the dispute to him was wholly without jurisdiction and had no effect in law. Unless an application under Section 20 was made to the Court, for referring the matter to arbitration, the Court could not pass any orders making the reference through Court.”

- (ii) In the case of Union of India Vs. M/s. Ajit Mehta and Associates (AIR 1990 Bombay 45), it was held as follows:-

“21. The difference between the Arbitrators appointed under S. 8 and S. 20 is well-known. Under S. 8 the Court is only called upon to supply the Arbitrator and the moment it names the Arbitrator, the Court becomes functus officio. The arbitration proceedings thereafter are governed by the specific terms of the arbitration agreement between the parties. The arbitration

in such case is without the intervention of the Court, and therefore, the Court has no control over the arbitration proceedings nor has it a power to give him any direction. This is unlike the provisions of S. 20. The arbitration proceedings conducted by the Arbitrator appointed under this section are controlled by the provisions of the Act and the Court can give directions to the Arbitrator from time to time.”

(iii) In the case of Shah Construction Co. Ltd. Vs. Municipal Corporation of Delhi (AIR 1985 Delhi 358), it was held that Section 8 of the 1940 Act does not contain any provision empowering the Court to make an order of reference to the arbitrator.

(iv) In the case of Fertiliser Corporation of India Vs. Ravi Kumar Ohri (AIR 1979 Orissa 39), it was held as follows:-

“Under Section 8 of the Arbitration Act, the court does not make any reference of any dispute. Its powers are limited only to the appointment of arbitrator or an umpire, as the case may be, if there is an arbitration agreement between the parties and there is no appointment or concurrence despite notice under Section 8(1) of the Act. After the appointment is made, it is for the parties to file their claims before the arbitrator who is to decide the same on merits.”

(v) In the case of Union of India Vs. S. V. Krishna Rao (AIR 1970 Madhya Pradesh 49), it was held as follows:-

“The purposes of Section 8 and Section 20 are altogether different. In those cases where the parties have agreed at the time of entering into a contract that any dispute arising out of it shall be settled by arbitration and where no arbitrators have been named and where the parties do not agree on the choice of the arbitrator, Section 8 comes into operation. It gives power to the Court to appoint an arbitrator; in other words, to make a choice for the contesting parties. Once the arbitrator is so appointed, the function of the Court comes to an end. The reference is not made by the Court but it is left to the parties to make the reference to the arbitrator nominated by the Court.”

(Emphasis added)

(vi) In the case of Union of India Vs. Gorakh Mohan Das (AIR 1964 Allahabad 477), it was held that appointment of arbitrator and reference to arbitration are distinct matters, and that reference to arbitration on an application under Section 8 of the 1940 Act is without jurisdiction. Paragraph 12 of the said report is reproduced herein below:-

“12. In the case before us, it is apparent from the terms of the order made by the learned Civil Judge that he did not merely appoint Sri Narain Singh as arbitrator. He also referred the

dispute to him. That he could not do without an application under Section 20. To that extent, his order is without jurisdiction. He was entitled to appoint an arbitrator, but not to make an order referring the dispute to him.”

18. In the impugned order dated 18.01.2022, the learned Civil Court, after referring to Section 159 of the C.P.C., held that since the matter had been referred to arbitration by the Civil Court, it is that Court where the award was to be filed. Section 159 of the C.P.C. reads thus:-

“159. Savings of proceedings.- All proceedings instituted prior to enactment of the Code of Civil Procedure (Amendment) Act, 2020 shall be deemed to proceed and dealt in accordance with the provisions of Code of Civil Procedure which existed prior to the said amendment Act. Explanation.- In this section the expression “proceedings” includes suit, appeal, review, revision, execution applications or any other proceedings and any matter incidental thereto.”

19. Although the application under Section 8 for the appointment of the arbitrator was indeed filed before the learned Civil Court, the learned Civil Court, while dismissing the petitioner’s objection to its jurisdiction, appears to have been under the impression that the proceedings before the arbitrator and the proceedings before the Court after the filing of the award were in continuation of the earlier proceedings under Section 8 through which the learned arbitrator was appointed. The learned Civil Court treated the proceedings before the learned arbitrator and the proceedings before the Court pursuant to the petitioner’s objections to the award and respondents No.2 and 3's application to make the award a rule of Court as continuation of the proceedings for the appointment of the arbitrator under Section 8 of the 1940 Act and the proceedings before the arbitrator.

20. The application under Section 8 was filed before the learned Civil Court on 02.06.2018 and decided on 04.03.2019. Vide the said order dated 04.03.2019, the learned Civil Court not just appointed a sole arbitrator but went ahead and directed the arbitrator to decide the disputes between the parties and adjourned the matter to 04.07.2019 *“for report of arbitrator.”* With the appointment of the arbitrator vide order dated 04.03.2019, the Court became *functus*

officio in the matter. It could not proceed further and make a reference to the arbitrator or fix the time for the filing of the award. The part of the order dated 04.03.2019 whereby the matters in dispute between the parties were referred to arbitration and the learned arbitrator was required to submit his report was without lawful authority and of no legal effect. Therefore, the arbitration proceedings culminating in the award and the proceedings pursuant to the petitioner's objections to the award and respondents No.2 and 3's application to make the award a rule of Court cannot be treated as a continuation of proceedings pursuant to the application under Section 8. In the case of Union of India Vs. M/s. Ajit Mehta and Associates (supra), it was held by the Bombay High Court that *"[i]t is not possible to hold that the proceedings challenging the award are a continuation of the proceedings appointing the arbitrator under S.8 of the Act."* Furthermore, it was held as follows:-

"[T]he power of the Court under S. 8 comes to an end and the Court becomes functus officio the moment the arbitrator is appointed under that section. The arbitration in pursuance of the appointment under S. 8 is an arbitration without the intervention of the Court and the Court has no power over what the arbitrator does or does not do thereafter. He is not an arbitrator appointed under S. 20 where the arbitration is with the intervention of the Court and under its control and the Court has power to give further directions to him."

21. Since the proceedings presently pending before the learned Civil Court are not in continuation of the earlier proceedings under Section 8, the award could only be filed before the Court which as on the date of filing had the jurisdiction to hear the matter.

22. Section 14(2) of the 1940 Act provides that *"[t]he arbitrators or umpire shall, at the request of any party to the arbitration agreement or any person claiming under such party or if so directed by the Court and upon payment of the fees and charges due in respect of the arbitration and award and of the costs and charges of filing the award, cause the award or a signed copy of it, together with any depositions and documents which may have been taken and proved before them, to be filed in Court, and the Court shall thereupon give notice to the parties of the filing of the award."* "Court" is defined in Section 2(c) of the said Act to mean a Civil Court having jurisdiction to

decide the questions forming the subject matter of the reference if the same had been the subject matter of a suit, but does not, except for the purpose of arbitration proceedings under Section 21, include a Small Cause Court.

23. Under Section 8(2) of the 1940 Act, an application for the appointment of an arbitrator is to be filed before the Court as defined in Section 2(c) of the said Act. Prior to the enactment of the 2020 Act, the Civil Court had an unlimited pecuniary jurisdiction to decide applications for appointment of arbitrators under Section 8 or applications for reference to arbitration under Section 20 of the said Act. It was the Civil Court where the awards were to be filed under Section 14(2) of the 1940 Act.

24. The 2020 Act was enacted on 18.02.2020 when the award had not yet been rendered. Hence, the award was to be filed before the Court which had the jurisdiction to decide the questions forming the subject matter of the reference under the amended law. Since by virtue of Section 6 of the C.P.C. (as amended by the 2020 Act), the Court of the District Judge has the jurisdiction to entertain a suit where the amount or value of the subject matter is above rupees fifty million, and since the amount or value of the subject matter of the award dated 08.10.2021 was far in excess of rupees fifty million, it was the Court of the District Judge where the award had to be filed and that was the Court which had the jurisdiction to entertain the petitioner's objections to the award and respondents No.2 and 3's application to make the award a rule of Court.

25. In view of the above, I must hold the proceedings before the arbitrator and the proceedings before the learned Civil Court after the filing of the award by the arbitrator are not proceedings in continuation of the earlier proceedings under Section 8 for the appointment of the arbitrator, and that the Court, while making appointment of an arbitrator under Section 8, has no jurisdiction to refer the matters in dispute between the parties to arbitration. The arbitrator could only file the award before the Court having jurisdiction to decide the questions forming the subject matter of the reference if the same had been the subject matter of a suit. Given the

fact that the 2020 Act was enacted prior to the rendering of the award, and that subject matter of the award/reference was above rupees fifty million, it was in the Court of the District Judge where the award could be filed. Consequently, the instant petition is allowed; the impugned order dated 18.01.2022 is set aside; the //s before the learned Civil Court shall be transmitted to the Court of the District Judge who shall adjudicate upon the petitioner's objections to the award and respondents No.2 and 3's application to make the award a rule of Court. There shall be no order as to costs.

**(MIANGUL HASSAN AURANGZEB)
JUDGE**

ANNOUNCED IN AN OPEN COURT ON 19/04/2022

(JUDGE)

*Qamar Khan**

APPROVED FOR REPORTING

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