



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 22ND DAY OF JULY, 2024

BEFORE

THE HON'BLE MR JUSTICE VENKATESH NAIK T

MISCELLANEOUS FIRST APPEAL NO. 102876 OF 2024 (AA)

BETWEEN:

NATIONAL HIGHWAYS AUTHORITY OF INDIA,
PROJECT IMPLEMENTATION, UNIT-BAGALKOT,
VEERABHADRESHWAR NILAYA, PLOT NO.15-C,
SECTOR NO.73, 2ND CROSS, NAVANAGAR (UNIT-2),
BAGALKOT-587103 B/BY ITS DGM (TECH) AND
PROJECT DIRECTOR, MR. SYED AMANULLAH
EARLIER ADDRESS WAS
NATIONAL HIGHWAYS AUTHORITY OF INDIA,
PROJECT IMPLEMENTATION, UNIT-KALBURGI,
PLOT NO.65, KOTHARI BHAVAN,
VENKATESH NAGAR, KALABURAGI-585103.

...APPELLANT

(BY SRI. SHIVASAI M. PATIL, ADVOCATE)

AND:

1. SRI RACHAPPA CHANNAPPA BAGALKOT,
S/O. CHANNAPPA BAGALKOT, MAJOR,
AGED NOT KNOWN, SY.NO.347, PLOT NO.25 & 26
R/O. HUNGUND VILLAGE, HUNAGUND TALUK-587118.
2. THE DEPUTY COMMISSIONER AND ARBITRATOR
BAGALKOT DISTRICT, BAGALKOT-587103.

...RESPONDENTS

(BY SRI. ABHISHEK MALIPATIL, HCGP FOR R2)

THIS MFA IS FILED UNDER SECTION 37 (1) (c) OF THE ARBITRATION AND CONCILIATION ACT, PRAYING TO CALL FOR THE RECORDS OF THE ARBITRATION PROCEEDINGS IN ARBITRATION PETITION NO.38/2022 ON THE FILE OF THE COURT OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, BAGALKOT AND SET ASIDE THE IMPUGNED ORDER DATED 03.04.2024 I.A. NO. 1/2022 IN ARBITRATION PETITION NO. 38/2022 PASSED BY THE COURT OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, BAGALKOT.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, THE COURT DELIVERED THE FOLLOWING:





JUDGMENT

Learned High Court Government Pleader is directed to take notice for respondent No.2.

The present appeal arising out of the impugned order dated 03.04.2024 passed on I.A.No.1/2022 filed under Section 36 (2) of the Arbitration and Conciliation Act, 1996 read with Section 151 of the CPC., before the trial Court.

The operative portion of the impugned order is as under:

"The operation of Arbitral Award dated 28.04.2022 passed by the Arbitrator and Deputy Commissioner, District Bagalkot in No.RB/LAQ/NH-13/CR-89+90/2012-13 of Hunagund village is hereby stayed subject to the petitioner depositing 50% of the compensation amount as awarded by the Arbitrator before Executing Court within a period of 8 weeks."

Perusal of Order 43 Rule 1 of the CPC., the impugned order is not appealable order. Under such circumstances, I deem it fit and proper to convert, this appeal as Writ Petition (WP).

Accordingly, the registry is directed to convert this Miscellaneous First Appeal (MFA) into Writ Petition (WP).



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The Registry is also directed to permit the learned counsel for the appellant to carry out the necessary correction in the appeal papers for the purpose of enabling Miscellaneous First Appeal (MFA) to be converted into Writ petition (WP).

Appeal stands disposed off for the statistical purpose.

Sd/-
JUDGE

EM/CT-AN
List No.: 1 Sl No.: 27