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C.A.No. 2732 OF 1997

ITEM No.104

Court No. 1

SECTION IV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 2732 of 1997

Gwalior Dugdha Sangh Sahakari Ltd.Appellant (s)

VERSUS

G.M., Govt. Milk Scheme, Nagpur & ors.

Respondent (s)

(with appln.(s) for exemption from filing O.T. and stay and with office report)

Date:21/08/2003 This/These matter(s) was/were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S.B. SINHA

For Appellant (s)Mr. S S Khanduja, Adv.
Mr. Yash Pal Dhingra, Adv.
Mr. Baldev Kishan Satija, Adv.

For Respondent (s)Mr. Niraj Sharma, Adv.
Mr. Krishnanand Pandeya, Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard counsel for the parties for 35 minutes.

The appeal is dismissed in terms of the signed order.

No costs.

Reportable.

(D.P. WALIA)
COURT MASTER

(SURAJ PARKASH)
COURT MASTER

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2732 OF 1997

Gwalior Dugdha Sangh Sahakari Ltd...Appellant(s)

vs.

G.M., Govt. Milk Scheme, Nagpur & ors. ..Respondent(s)

O R D E R

The appellant herein is a society registered under the Madhya Pradesh Co-operative Societies Act, 1960 (hereinafter referred to as "the Act"). On 17.12.1993 and 8.2.1994, the appellant herein entered into agreements with the General Manager, Government Milk Scheme, Nagpur/Akola for supply of milk. These agreements were executed at Nagpur. Condition No. 19 of the said agreements provided that the disputes between the parties shall be referred to an arbitrator, i.e. the Dairy Development Commissioner, Bombay, Maharashtra. Subsequently, the appellant-Society moved an application under Section 33 of the Arbitration Act, 1940 for quashing condition No. 19 whereby the arbitration was to be done by the Dairy Development Commissioner, Bombay, Maharashtra. The learned District Judge was of the opinion that in view of Section 64 of the Act, condition No. 19 of the agreement was erroneous and, therefore, the same was set aside and the application was allowed. Aggrieved, the respondents filed an appeal before the High Court.

The High Court was, inter alia, of the view that since the agreements were entered into beyond the territorial jurisdiction of the appellant, that is outside the State of Madhya Pradesh, Section 64 of the Act was inapplicable and, therefore, the High Court set aside the order of the learned District Judge and allowed the appeal. It is against the said judgment, the appellant is in appeal before us.

Learned counsel appearing for the appellant urged that the view taken by the High Court was erroneous. We do not find any merit in this contention.

It is not disputed that the agreements were entered into and executed at Nagpur which is outside the territorial jurisdiction of the State of Madhya Pradesh. Section 1 of the Act provides that the provisions of the Act would be applicable to the whole of Madhya Pradesh. Since the operation of the Act is intra-State and cannot be applied beyond the territory of the State of Madhya Pradesh, it must be held that Section 64 of the Act is not applicable.

In T.K. Sundaram vs. The Co-operative Sugars Ltd., Chittoor (AIR 1988 Madras 167), it was held thus :

"8.The next question raised on behalf of the appellant is that the suit is barred under the provisions of the Kerala Co-operative Societies Act, and as such the suit ought to have been dismissed. This argument is based upon the arbitration provision contained in the Kerala Co-operative Societies Act. But the contract has been entered into in Tamil Nadu and the same is enforceable in Tamil Nadu. As such with reference to the contract entered into in Tamil Nadu, and enforceable in Tamil Nadu provisions of the Kerala Co-operative Societies Act cannot be applied. Under the circumstances, both the courts below are right in negating the contention relating to jurisdiction."

Applying the principles laid down above, we find that since the agreements in the present case were entered into and executed in the State of Maharashtra, Section 64 of the Act is not applicable and, therefore, the view taken by the High Court was correct. We find no merit in the appeal. It is, accordingly, dismissed. No costs.

Learned counsel appearing for the arbitrator (respondent No. 3 herein) furnished before us a copy of the award in a sealed cover. Since we have already disposed of the matter, it will be open to the arbitrator to file the same before the appropriate court.

.....CJI (V.N. KHARE)

.....J
(S.B. SINHA)

New Delhi;
August 21, 2003.