

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.6565-6566 OF 2005

CHIEF PROJECT MANAGER

.....APPELLANT

VERSUS

M/S ELECTRICAL CONSTRUCTION AND EQUIPMENT
CO.LTD.

....RESPONDENT

O R D E R

These appeals are directed against the order of the High Court dt.02.08.2001 passed in an application under Section 11(6) of the Arbitration and conciliation Act, 1996 (For short 'the Act'). By the said order, the High Court had appointed Mr.Justice N.D.Patnaik as the sole Arbitrator. This order was challenged by the appellant by filing a Writ Petition under Article 226 of the Constitution of India before the High Court. The said Writ Petition was dismissed by the High Court vide order dt.12.12.2001 on the ground that a Writ Petition challenging the order of the Chief Justice under Section 11(6) of the Act was not maintainable. In these appeals, the order dt.12.12.2001 of the High Court is also challenged. We have

been informed that in the meanwhile, the sole arbitrator made his award and the

appellant herein has filed objections under Section 34 of the Act challenging the

award. The grievance made out by the learned counsel for the appellant is that the

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appointment of Arbitrator by the Chief Justice was not in accordance with the

arbitration clause contained in the agreement between the parties. A Copy of the

objections said to have been filed before the appellant under Section 34 of the Act

has been placed on this record. We find from the same that the appellant has taken

objections in this behalf in the said petition. The said petition is said to be still

pending. In view of the fact that the issue raised by the appellant in these appeals is

the subject matter of objections under Section 34 of the Act, we do not consider it a

fit case for interference under Article 136 of the Constitution. The appeals are

accordingly dismissed. We make it clear that We have not adjudicated on the

merits of the controversy involved in these appeals.

.....J.

ARUN KUMAR)

(

.....J.

..

(G.P. MATHUR)

NEW DELHI ;

JANUARY 10, 2006.

ITEM NO.106

COURT NO.10

SECTION IX

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(s). 4168 OF 2003

M/S.S.B.P. & CO.

Appellant (s)

VERSUS

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M/S. PATEL ENGINEERING LTD. & ANR.

Respondent(s)

(With office report)

WITH

Civil Appeal NO. 4169 of 2003

(With office report)

Civil Appeal NO. 4170-4173 of 2003

(With office report)

Civil Appeal NO. 4076 of 2004

(With office report)

Civil Appeal NO. 6562 of 2005

(With prayer for interim relief and office report)

Civil Appeal NO. 6563-6564 of 2005

(With office report)

Civil Appeal NO. 6565-6566 of 2005

(With prayer for interim relief)

Civil Appeal NO. 3777 of 2003

(With appl.(s) for urging addl.grounds and with office report)

Date: 10/01/2006 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN KUMAR

HON'BLE MR. JUSTICE G.P. MATHUR

For Appellant(s)

In CA 4168/03,
4169/03 & 4170-
4173/03

Mr. S. Muralidhar, Adv.
Mr. Amit Sharma, Adv.

Mr.S.Udaya Kumar Sagar, Adv.
Ms.Bina Madhavan, Adv.

C.A.No.4170-4173/2003

At the request of learned counsel for the parties to enable them to seek instructions, the matters are adjourned by two weeks.

C.A.No.4076/2004

It is submitted that the issue in this case is about the existence of arbitration

clause. It is further submitted that this issue has been referred to a larger Bench by a

judgment of this Court in C.A.No.1586/2004 dt.26.7.2005. Let the judgment in the said

referred matter be awaited. List the matter after the judgment is pronounced in the said matter.

C.A.No.6562/2005

Counsel for the parties pointed out that this matter has been wrongly tagged

with the batch of matters listed today. The issue involved in this matter is totally different.

Therefore, the matter should be listed independently for hearing and disposal. Delink

C.A.No.6562/2005 from these batch of matters and list the same for hearing.

C.A.No.6563-6564/2005

Counsel for the parties pointed out that this matter has been wrongly tagged

with the batch of matters listed today. According to them, the issue involved in this matter

is totally different. Therefore, the matter should be listed independently for hearing and

disposal. Delink C.A.Nos.6563-6564/2005 from these batch of matters and list the same for hearing.

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C.A.No.6565-6566/2005

The appeals are dismissed in terms of the signed order.

C.A.No.3777/2003

At the request of counsel for the parties, list the matter after three weeks.

(Satish K. Yadav)

Court Master

(Phoolan Wati Arora)

Court Master

(Signed order in C.A.NOs.6565-6566/2005 is placed on the file)