

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

IA.No.3 & 4in

Petition(s) for Special Leave to Appeal (Civil) No.10281/1995

RAJ KUMAR & BROS

Petitioner (s)

VERSUS

HINDUSTAN STEEL WORKS CONSTRN.

Respondent (s)

(With Appln. Under Order XLVII Rule 6, SCR)

Date : 22/09/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL

HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

For Petitioner (s) Mr.Rana Mukherjee,adv.
Mr.Sidharth Gautam,Adv.
Mr.Goodwill Indeevar,Adv.
Mr. R.C. Kaushik,Adv.For Respondent (s) Mr.Ashok Mathur,Adv.
M/s Lawyers Associated,Adv.UPON hearing counsel the Court made the following
O R D E R

A petition under Sections 5, 9, 11 and 12 of the Arbitration Act, 1940 had been filed by the petitioners herein in the Court of Subordinate Judge-I, Chaibasa. Ultimately after series of proceedings, orders were passed appointing arbitrators as well as on Umpire. The order of the Sub-Judge appointing an Umpire was impugned before the High Court at Patna. The High Court set aside the appointment of the Umpire made by the Sub-Judge and upheld the appointment of the Umpire who had been appointed prior to the arbitrators entry on the reference. The decision of the High Court was in turn challenged before this Court. This Court passed an order in the following terms:

"We have heard learned counsel for the parties.

In substitution of the order passed by the High Court, we order that let the arbitrators appoint another person as Umpire, instead of Mr. Uday Sinha, because of the difficulties having arisen. Let the Umpire be chosen within 3 weeks from today so that the arbitration proceedings are finalised expeditiously.

With these directions, the special leave petition stands disposed of."

The Umpire who was selected by the arbitrators has since submitted her Award in this Court. Proceedings have been filed by the respondent for setting aside the award. An application has also been filed by the petitioners/claimants before this Court namely Raj Kumar and Bros for a judgment in terms of the Award.

We are of the view that both these applications should be sent to the Court of Sub-Judge Chaibasa which was the original court where the proceedings were initiated as this Court had played no part in the actual selection of the Umpire eo nomine. Let the Award of the arbitrator as well as the various applications filed by the parties be transferred to the Subordinate Court Judge Chaibasa for being heard and disposed of.

I.As are disposed of accordingly.

(USHA BHARDWAJ)
P.S. TO REGISTRAR

(MADHU SAXENA)
COURT MASTER