

SUPR EME COU R T OF I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).6989/2007

(From the judgement and order dated 10/01/2007 in MCA No. 727/2006
of The HIGH COURT OF BOMBAY BENCH AT NAGPUR)

M/S RANA CONSTRUCTION CO.

Petitioner(s)

VERSUS

M/S VIDARBHA AAWAS UDYOG PVT.LTD.& ORS.

Respondent(s)

(With appln(s) for directions and permission to file additional documents)
(For Final Disposal)

Date: 24/07/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. D.N. Goburdhan,Adv.

For Respondent(s) Mr. Manish Pitale, Adv.

For R-3 Mr. Chander Shekhar Ashri,Adv.

UPON hearing counsel the Court made the following

ORDER

No one has entered appearance on behalf of respondents
No. 1 and 2 despite service of notice.Heard learned counsel for appellant and respondent No.
3.

Leave granted.

The impugned order is upheld and this appeal as against
respondent No. 3 is dismissed and the impugned order is set aside
and this appeal as against respondents No. 1 and 2 is allowed. No
order as to the costs.The appellant is at liberty to approach an appropriate
authority/court which will appoint an arbitrator to adjudicate
the disputes between the appellant and respondents No. 1 and 2 in
accordance with law.(Ajay Kr. Jain)
Court Master(Indu Satija)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4701 OF 2009
(Arising out of SLP(C) No. 6989 of 2007)

Rana Construction Co.

.... Appellant

Versus

Vidarbha Aawas Udyog Pvt. Ltd. &
Ors.

.... Respondents

ORDER

No one has entered appearance on behalf of respondents No. 1
and 2 despite service of notice.

Heard Mr. D.N. Goburdhan, learned counsel appearing for the

appellant and Mr. Manish Pitale, learned counsel appearing for respondent No. 3.

Leave granted.

Respondent No. 3 is a trust which runs certain medical colleges/hospital etc. It entered into an agreement with respondent No. 1 for construction of two hostels. Respondents No. 1 and 2 in turn entered into an agreement with the appellant for doing the aforesaid work. Since there was some dispute between the parties, an application under Section 11 of the Arbitration and Conciliation Act, 1996 was filed before the High Court of Judicature at Bombay, Nagpur Bench. By the impugned order dated 11.1.2007 that application has been rejected. Hence this appeal by special leave.

So far as respondent No. 3 is concerned, admittedly, there is no written agreement between the appellant and respondent No. 3. Hence, the order passed by the High Court is upheld and this appeal as against respondent No. 3 is dismissed.

However, in our opinion, since there was a written agreement between the appellant on one side and respondents No. 1 and 2 on the other, which contained an arbitration clause, the High Court was not right in rejecting the application under Section 11 of the Arbitration and Conciliation Act, 1996. In that view of the matter, we allow this appeal as against respondents No. 1 and 2 and set aside the impugned order insofar as it relates to the said respondents. The appellant is at liberty to approach an appropriate authority/court which will appoint an arbitrator to adjudicate the disputes between the appellant and respondents No. 1 and 2 in accordance with law.

Appeal allowed as against respondents No. 1 and 2 and dismissed as against respondent No. 3. No order as to the costs.

(MARKANDEY KATJU)

.....J.

(ASOK KUMAR GANGULY)

.....J.