

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). 3701 OF 2006

TAMIL NADU ELECTRICITY BOARD

Appellant (s)

VERSUS

M/S. BRIDGE TUNNEL & CONSTRUCTION &ANR.

Respondent(s)

(With appln(s) for permission to place addl. documents on record and office report)

Date: 03/04/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE H.L. GOKHALE

For Appellant(s) Mr. S.Guru Krishna Kumar, (AAG.State of T.N.)
Mr. B.Balaji, Adv.
Mr. A.Prasanna Venkat, Adv.

For Respondent(s) Mr. K.Radhakrishnan, Sr. Adv.
Mr. S.U.K.Sagar, Adv.
Ms. Praseena E. Joseph, Adv. for
M/S. Lawyer'S Knit & Co, Adv.

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

The appeal is dismissed.

[SUMAN WADHWA]
COURT MASTER

[RENU DIWAN]
COURT MASTER

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3701 OF 2006

TAMIL NADU ELECTRICITY BOARD

.. APPELLANT(S)

vs.

M/S. BRIDGE TUNNEL & CONSTRUCTION
& ANR.

.. RESPONDENT(S)

O R D E R

We have heard Mr. Guru Krishna Kumar, learned

counsel for the appellant and Mr. K.Radhakrishnan,
learned senior counsel for the respondent No.1.

We find that a petition has been filed by the
present appellant before the arbitral tribunal under
Section 16(1)(2)(3) and (5) of the Arbitration and
Conciliation Act, 1996 (for short '1996 Act'). In the
above petition, the appellant has challenged the very
jurisdiction of the arbitral tribunal and has also
pleaded the absence of arbitration agreement after the
matter came to be decided by this Court on 18.2.1997.

Section 16 of the 1996 Act reads as under:

"16. Competence of arbitral tribunal to
rule on its jurisdiction:- (1) The arbitral
tribunal may rule on its own jurisdiction,
including ruling on any objections with respect
to the existence or validity of the arbitration
agreement, and for that purpose:-

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(a) an arbitration clause which
forms part of a contract shall be
treated as an agreement independent of
the other terms of the contract; and

(b) a decision by the arbitral
tribunal that the contract is null and
void shall not entail ipso jure the
invalidity of the arbitration clause.

(2) A plea that the arbitral tribunal does
not have jurisdiction shall be raised not
alter than the submission of the statement of
defence; however, a party shall not be
precluded from raising such a plea merely
because that he was appointed, or participated
in the appointment of, an arbitrator.

(3) A plea that the arbitral tribunal is
exceeding the scope of its authority shall be
raised as soon as the matter alleged to be
beyond the scope of its authority is raised
during the arbitral proceedings.

(4) The arbitral tribunal may, in either of
the cases referred to in sub-section (2) or
sub-section (3), admit a later plea if it
considers the delay justified.

(5) The arbitral tribunal shall decide on a
plea referred to in sub-section (2) or sub-
section (3) and, where the arbitral tribunal
takes a decision rejecting the plea, continue
with the arbitral proceedings and make an
arbitral award.

(6) A party aggrieved by such an arbitral award may make an application for setting aside such an arbitral award in accordance with section 34."

Section 16 empowers the arbitral tribunal to rule on its jurisdiction including existence of the arbitration agreement.

Having regard to the above, we are satisfied that the impugned order does not call for any interference. The appeal is dismissed.

Needless to say that the contentions raised by the appellant in the petition under Section 16 of the 1996 Act shall be decided by the arbitral tribunal on their own merit uninfluenced by the impugned order and the dismissal of the present appeal.

.....J.
(R.M. LODHA)

.....J.
(H.L. GOKHALE)

New Delhi,
April 3, 2012.