

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.2329 OF 2001

INDIAN RAILWAY CONSTRUCTION CO.LTD.

... APPELLANT

VERSUS

M/S. MOGHUL INDIA  
RESPONDENT

...

ORDER

This appeal is directed against the judgment and order dated 09.05.2000 passed by the High Court of Punjab and Haryana at Chandigarh in Civil Revision No.5158 of 1997. By the aforesaid order the High Court allowed an application filed by the respondent under Section 20 of the Arbitration Act, 1940.

In view of the order that we propose to pass it may not be necessary to recite the entire facts leading to the filing of the present appeal. Suffice it to say that there was a contract between the appellant and the respondent for fabrication of steel structures etc. The contract was entered into between the parties on 28.04.1987 and the work was duly completed on 28.11.1988. On 22.04.1989 the respondent endorsed full and final payment in respect of a contract. On 11.05.1989 the respondent gave no objection certificate that there is no other claim outstanding against the appellant and accepted the

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full and final settlement of all the claims in respect of the agreement entered into on 28.04.1987.

The Managing Director of the respondent-firm, Shri B.S. Bhatia, also by letter dated 31.05.1989 accepted the accounts as full and final. The appellant made final payment also on 01.06.1989 and the receipt was acknowledged on a revenue stamp bearing the signature and the name of the Director.

After the final payment was made there was also a demand letter dated 06.06.1989 from Mr. B.S. Bhatia that a small amount of Rs.7608/- still remained to be paid for a small job done by the respondent. In the said letter it has also been acknowledged that all

the relevant notes were made ready by the APM-SF, signed and accepted by the respondent and finally approved. The balance amount of Rs.7610/- as demanded was also paid by the appellant and the same was acknowledged by the respondent by a receipt dated 10.06.1989.

After this full and final payment has been endorsed and acknowledged and no demand certificate was issued, it appears that the respondent by a letter dated 09.09.1989 made a demand of about Rs.3,85,641/- with interest at the rate of 24% with effect from 20.10.1989. The aforesaid demand was rejected by the appellant by its letter dated 19.09.1989.

It appears that on 06.05.1992 the respondent filed an application under Section 20 of the Arbitration Act, 1940 for referring the dispute to an Arbitrator which was dismissed by the Trial Court. On appeal, the order has been affirmed by the District Judge. Aggrieved thereby the respondent preferred revision petition under Section 115 CPC and the High Court allowed the said revision petition by the order impugned before this Court. Hence, this appeal by special leave.

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We have already noticed that the respondent has accepted full and final payment without any demur. This Court in a catena of decisions has held that once full and final payment in respect of a dispute covered by the arbitration clause is finally settled between the parties such dispute or difference does not remain to be an arbitral dispute and arbitration cannot be invoked even for certain other matters. Avoiding multiplicity of the decisions, we may refer to the decision of three Judge Bench rendered in *Nathani Steels Ltd. vs. Associated Constructions*, 1995 Supp (3) SCC 324.

Learned counsel for the respondent has relied upon the decision of two-Judge Bench rendered in *Chairman and Md. NTPC Ltd. vs. Reshmi Constructions, Builders & Contractors*, (2004) 2 SCC 663, in which this Court held that no demand certificate was signed by the respondent which was qualified by letter dated 20.12.1990 written by the respondent to the appellant stating, inter alia : "We

are signing the alleged final bill under coercion, under undue influence and under protest only without prejudice to our rights and claims whatsoever. There is no accord and satisfaction between the contracting parties." In view of the given facts this Court held that no

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demand certificate was preceded by undue influence and coercion and therefore it cannot be held that no demand certificate was free from coercion and undue influence. In the instant case, admittedly there is no question of no demand certificate being issued by the respondent under undue influence and coercion as in the case of Reshmi Constructins (supra). This decision is therefore of no assistance to the respondent.

Having considered the aforesaid facts, we are of the view that the High Court in exercise of revisional jurisdiction under Section 115 CPC was not justified in upsetting the judgment of two courts below. The order of the High Court, therefore, is set aside. This appeal is allowed. No costs.

.....J.  
( H.K. SEMA )

.....J.  
( LOKESHWAR SINGH PANTA )

NEW DELHI,  
OCTOBER 24, 2007.

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ITEM NO.114

COURT NO.5

SECTION IV

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 2329 OF 2001

INDIAN RAILWAY CONSTRUCTION CO.LTD.&ORS.

Appellant (s)

VERSUS

M/S. MOGHUL INDIA

Respondent(s)

(With office report )

Date: 24/10/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA  
HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Appellant(s)

Mr. Adarsh B. Dial, Sr.Adv.  
Mr. Rajiv Nanda, Adv.  
Ms. Sumati Anand, Adv.

For Respondent(s)

Mr. Tushar Bakshi, Adv.  
Ms. Naresh Bakshi, Adv.

UPON hearing counsel the Court made the following  
ORDER

The order of the High Court is set aside. This appeal is  
allowed in terms of the signed order. No costs.

(PAWAN KUMAR)  
COURT MASTER

(ANAND SINGH)  
COURT MASTER

(signed order is placed on the file)