

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL Nos.1852-1853 OF 2018

M/S MESSAGE ADS PVT.LTD.

... APPELLANT

Versus

**A.P. STATE ROAD TRANSPORT
CORPN. LTD. AND ORS.**

... RESPONDENTS

WITH

CIVIL APPEAL No.1854 OF 2018

AND

CIVIL APPEAL No.1855 OF 2018

O R D E R

1. The Court is convened through Video Conferencing.
2. As the parties involved in these appeals are substantially the same, for the sake of convenience and clarity the parties are hereinafter referred to in the capacity as they are arrayed in main appeals i.e, Civil Appeal Nos. 1852-1853 of 2018.
3. These appeals are directed against judgment and order dated 03.08.2009 and 10.11.2009 passed by the High Court of Andhra

Pradesh at Hyderabad in Civil Miscellaneous Appeal No.2800 of 2002, Civil Miscellaneous Appeal No.2359 of 2002 and Civil Revision Petition No. 3933 of 2002 whereby the High Court partly allowed the appeal being CMA No. 2359 of 2002 while dismissing the revision petition being CRP No. 3933 of 2002 filed by respondent no.1 and dismissed the appeal being CMA 2800 of 2002 filed by the appellant herein.

4. Brief facts of the case are as follows: On 25.11.1988, the appellant entered into a contract with the respondents for displaying advertisements on the properties of respondent no.1 for a period of six years. However, owing to several external factors the work suffered badly and the appellant was unable to fulfil the payment schedule. The respondents vide letter dated 30.07.1990 sought to unilaterally terminate the contract with the appellant with effect from 31.08.1990. However, on a request from the appellant, the termination was cancelled and the contract was allowed to continue.
5. On 18.01.1991, the respondents seized the appellant's advertising property and on 02.03.1991, issued one month's notice to the appellant intimating that the contract would be terminated on 02.04.1991.
6. Being aggrieved, the appellant filed Original Petition No.146 of 1995 under Section 8(2) read with Section 20 of the Arbitration Act, 1940

seeking appointment of an Arbitrator. Vide order dated 11.08.1998, the Senior Civil Judge, City Civil Court, Hyderabad appointed Mr. P. V. Rama Sarma as the Arbitrator for adjudication of the dispute between the parties. The Arbitrator on 8.04.1999 passed an award of Rs. 97,19,334.65 along with interest @ 18% p.a. on claim nos. 1 and 2 (i.e. Rs. 69,56,721.40) from 03.11.1995 till the date of its realization.

7. Aggrieved by the same, the respondent no. 1 filed Original Petition No. 17 of 1999 in the Court of Additional Senior Civil Judge, City Civil Court under Sections 30 and 33 of the Arbitration Act, 1940 praying for setting aside of the Award dated 08.04.1999 to the extent of Claim nos. 1-4 and 6-9 together with costs whereas appellant filed Original Petition No. 15 of 1999 praying for passing decree and judgment in terms of the award dated 08.04.1999 as rule of the Court.
8. The Senior Civil Judge, Hyderabad vide common order dated 22.02.2002 modified the award dated 08.04.1999. The learned Judge dismissed Claim Nos. 2, 3, 4, 7 and part of Claim no. 1 i.e., Rs 36,69,160/- and thereby partly allowed Original Petition No. 17 of 1999 filed by the respondents herein. However, the learned judge accepted the award to the extent of part of Claim No.1 i.e., Rs.23,80,765/- and Claim No. 6 to the extent of Rs.1,21,700 and interest at the rate of 18% p.a. from 03.11.1995 to 22.02.2002 on

allowed Claim No.1 of Rs 23,80,765/- with future interest @ 9% p.a. till the date of its realization.

9. The aforesaid order of Senior Civil Judge was challenged before the High Court by the appellant as well as the respondents by filing CMA Nos. 2800 of 2002 and 2359 of 2002 respectively. The High Court vide common impugned judgment and order dated 03.08.2009 partly allowed the appeal preferred by the respondents by reducing the interest on Claim No.1 from 18% per annum to 9% per annum from 03.11.1995 till the date of its realization whereas dismissed the appeal preferred by the appellant.
10. Apart from the above CMA No. 2359 of 2002, respondents also filed Civil Revision Petition No. 3933 of 2002, before the High Court assailing the order passed in Original Petition No. 15 of 1999, seeking to set aside the order dated 22.02.2002 making the award Rule of the Court to an extent of Rs. 25,02,463/-. High Court vide order dated 10.11.2009 dismissed the revision petition.
11. Aggrieved by the aforesaid orders, the appellant and respondents have preferred these present Civil Appeals.
12. Learned counsel for the appellant vehemently contended that the High Court has failed to appreciate that under Section 30 read with Section 33 of the Arbitration Act, 1940, the scope for interference with the Award is extremely limited and the Civil Court and the High Court

have gone beyond the scope of Section 30. Learned counsel further contended that the High Court has erred in reducing the rate of interest from 18% per annum to 9% per annum inasmuch as the Arbitrator has awarded interest at the rate of 18% per annum after considering the fact that the respondent no.1 itself was claiming interest at the rate of 18% per annum on all its dues.

13. Per contra, learned counsel for the respondents submitted that the appellant has not performed the contract and they are at default. Moreover, fixation of interest @ 9% p.a. by the High Court is reasonable and does not warrant interference. Learned counsel further submitted that his client has already paid half of the amount with interest @ 9% and same has already been withdrawn by the appellant.

14. Heard learned counsel for the parties at length and carefully perused the material placed on record.

15. The principal bone of contention between the parties in the present appeals, is the issue with regard to quantum of interest. A perusal of the agreement between the parties reveals that there was no prohibition on the grant of interest. On a suggestion put forward by this Bench, the counsel for the parties were agreeable to have the present appeals disposed of by fixing the interest @ 12% p.a. Taking into account the aforesaid submissions advanced by the learned counsel for the rival parties, and the long pendency of the dispute

since 1993, we are of the considered view that ends of justice would be met if the rate of interest be increased from 9% per annum to 12% per annum on Claim No.1 from 03.11.1995 till the date of its realization.

Ordered accordingly.

16. However, six weeks' time is granted to the respondents to make the payment to the appellant from the date of communication of this order.

17. The appeals stand disposed of in the above-mentioned terms.

.....**J.**
(N.V.RAMANA)

.....**J.**
(SURYA KANT)

.....**J.**
(ANIRUDDHA BOSE)

NEW DELHI;
JANUARY 20, 2021.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSCivil Appeal No(s).1852-1853/2018

M/S MESSAGE ADS PVT. LTD

Appellant(s)

VERSUS

A. P. STATE ROAD TRANSPORT CORPN. LTD. & ORS.

Respondent(s)

WITH

C.A. No. 1854/2018 (XII-A)C.A. No. 1855/2018 (XII-A)

Date : 20-01-2021 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Appellant(s) Mr. Venkateswara Rao Anumolu, AOR
In C.A.1854/18 &
C.A.No.1855/18In C.A.1852-1853/18 Mr. Y. Raja Gopala Rao, AOR
& for R.No.1 in Mr. K. Pramod Kumar, Adv.
C.A.No.1854/18For Respondent(s) Mr. Venkateswara Rao Anumolu, AOR
In C.A.1852-53/18
Mr. Sriharsha Peechara, Adv.
Mr. Arjun Krishnan, AORUPON hearing the counsel the Court made the following
O R D E R

The Court is convened through Video Conferencing.

Six weeks' time is granted to the respondents to make the
payment to the appellant from the date of communication of this
order.The appeals stand disposed of in terms of the signed
order.(SATISH KUMAR YADAV)
DEPUTY REGISTRAR(RAJ RANI NEGI)
DEPUTY REGISTRAR

(Signed order is placed on the file)