

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. (S).6057 OF 2015
(Arising out of S.L.P. (C) No.21440 of 2013)

M/S GOKUL KRISHNA CONSTRUCTION P.LTD.& ANR. Appellant(s)

VERSUS

STATE OF CHHATTISGARH & ORS. Respondent(s)

O R D E R

Leave granted.

This appeal arises out of an order dated 27th November, 2012 passed by a Division Bench of the High Court of Chhattisgarh at Bilaspur whereby Writ Petition (C) No.2022 of 2012 filed by the appellant-company has been dismissed.

The appellant-company appears to have secured a contract for construction and maintenance of eight different State roads in the State of Chhattisgarh under Pradhan Mantri Gramin Sadak Yojna. The case of the appellant-company is that the contracted works were completed by it in accordance with the terms of the contract and within the time stipulated for the same. The respondent-State, on the other hand, alleges that the construction work was delayed by nine months which called for levy of liquidated damages in accordance with the provisions of the contract/agreement. It is also the case of the respondent-State that the extensions granted to the appellant-company were subject to payment of penalty in terms of the Agreement. After the completion of the works, the

appellant-company appears to have demanded return/release of the security amount in form of fixed deposits which return/refund the respondent-state declined thereby forcing the appellant to file Writ Petition (C) No.2022 of 2012, mentioned earlier.

The High Court has while dismissing the writ petition taken the view that the appellant-Company could seek redressal in terms of Clause 25 of the Agreement which provides for adjudication of disputes between the parties by way of arbitration. In the opinion of the High Court the contract provides a complete machinery for redressal of all disputes, which is the only remedy available to the appellant-Company. This appeal assails the correctness of that order as noticed earlier.

Mr. Atul Sharma, learned counsel for the appellant-company, argued that the appellant-company has already invoked the arbitral clause and approached the Arbitral Tribunal constituted under the Madhya Pradesh State enactment as extended to the State of Chhattisgarh. The matter is, according to Mr. Sharma, currently pending adjudication before the Arbitral Tribunal. In the meantime, the State is, according to learned counsel, encashing the fixed deposits to the prejudice to the appellant-company. It is urged that since the Tribunal does not have the power to grant any interim relief against encashment of the fixed deposit receipts, the appellant has no option but to approach the High Court for redress.

Mr. A.P. Mayee, learned counsel for the respondent-State, on the other hand, contended that the respondents have already recovered a sum Rs.18,81,117/- out of the final payment due to the contractor. A further amount of Rs.49,55,283/- all the same remains recoverable from the appellant. The available fixed deposit receipts of a sum of Rs.49,72,000/- have not yet been encashed.

In the circumstances, therefore, and keeping in view of the fact that the disputes between the parties are under adjudication before the Tribunal, interests of justice would be sufficiently served if we direct that encashment of the fixed deposit receipts for a total sum of Rs.49,72,000/- shall remain stayed pending final disposal of the disputes by the arbitral Tribunal. With that direction, this appeal is disposed of leaving the parties to bear their own costs. We make it clear that the respondent-State shall be free to have the fixed deposit receipts renewed from time to time to enure for the benefit of the successful party. No costs.

.....J.
(T.S. THAKUR)

.....J.
(V. GOPALA GOWDA)

.....J.
(R. BANUMATHI)

NEW DELHI
DATED 11th August, 2015.

ITEM NO.5

COURT NO.2

SECTION IVA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 21440/2013

(Arising out of impugned final judgment and order dated 27/11/2012 in WPC No. 2022/2012 passed by the High Court Of Chhatisgarh At Bilaspur)

M/S GOKUL KRISHNA CONSTRUCTION P.LTD.&AN

Petitioner(s)

VERSUS

STATE OF CHHATTISGARH & ORS.

Respondent(s)

(with appln. (s) for exemption from filing c/c of the impugned order and exemption from filing O.T. and permission to file additional documents and office report)

Date : 11/08/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. Atul Sharma,Adv.
Mr. Milanka Chowdhary,Adv.
Mr. Saroj Anand Jha,Adv.
Mr. Yash Srivastava,Adv.
Mr. M. R. Shamshad,Adv.

For Respondent(s) Mr. Aniruddha P. Mayee,Adv.
Mr. Charudatta Mahindrakar,Adv.
Mr. A. Selvin Raja,Adv.

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

Heard.

Leave granted.

In terms of the signed order this appeal is disposed of:

"In the circumstances, therefore, and keeping in view of the fact that the disputes between the parties are under adjudication before the Tribunal, interests of justice would be sufficiently served if we direct that encashment of the fixed deposit receipts for a total sum of Rs.49,72,000/- shall remain stayed pending final disposal of the disputes

by the arbitral Tribunal. With that direction, this appeal is disposed of leaving the parties to bear their own costs. We make it clear that the respondent-State shall be free to have the fixed deposit receipts renewed from time to time to enure for the benefit of the successful party. No costs."

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER

(Signed order is placed on the file)