

ITEM NO.28

COURT NO.5

SECTION XIV

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). 27499/2009

(Arising out of impugned final judgment and order dated 13-02-2009 in Arbitration Application No. 387/2007 passed by the High Court of Delhi At New Delhi)

UNION OF INDIA

Petitioner(s)

VERSUS

M/S. L.V. CONSTRUCTION CO. (P) LTD. & ORS.

Respondent(s)

(IA No. 1801/2019 - WITHDRAWAL OF CASE / APPLICATION)

Date : 07-02-2020 This matter was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Rajan Chaurasia, Adv.
Ms. Rukmini Bobde, Adv.
Mr. Adit Khorana, Adv.
Mr. Durga Dutt, Adv.
Mr. Raj Bahadur Yadav, AOR
Mr. Mukesh Kumar Maroria, AOR

For Respondent(s) Mr. Anubhav Kumar, Adv.
Mr. Ankit Agarwal, Adv.
For M/s. Manoj Swarup And Co., AOR

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

I.A.NO.1801 of 2019

Learned counsel appearing for the respondent has filed an application (I.A.No.1801 of 2019) seeking discharge/withdrawal from the case.

In view of the prayer made in the said application, M/s Manoj Swarup & Co. is discharged. I.A. No.1801 of 2019 is accordingly allowed.

SLP(C)No.27499 of 2009

Since the matter has been pending for quite some time, without ordering further notice to the respondent the matter has been taken up for hearing.

We have heard Mr. Rajan Chaurasia, learned counsel appearing for the petitioner-Union of India.

The matter relates to to the appointment of the Arbitrator. Work was granted to the respondent-company by the petitioner-Union of India for construction of minor bridges of a rail link project on 26.08.1998. In view of the dispute arose between the parties, the respondent-L.V. Construction Co.(P) Ltd. filed petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of Arbitrator. The respondent claimed that in spite of service of statutory notice, the Union of India has not nominated an Arbitrator.

Considering the application filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, the Delhi High Court has allowed Arbitration Application NO.387 of 2007 and appointed Sh. Justice Vijender Jain as the sole Arbitrator to adjudicate the dispute between the parties.

Being aggrieved by the appointment of the sole Arbitrator and contending that the appointment of the said Arbitrator is not in terms of Section 64 of the General Clauses Act (GC Act), the Union of India has preferred this special leave petition.

When the special leave petition came up for hearing on 23.10.2009 notice was issued and interim stay of the impugned

judgment was granted by this Court. Subsequently by Order dated 10.07.2017 this Court observed that since the special leave petition has been pending since 2009, in the fitness of things appointed Mr. Justice Vikramajit Sen, Former Judge of the Supreme Court of India, as sole Arbitrator to adjudicate the disputes between the parties.

As seen from Office Report dated 06.02.2020 this Court on 16.07.2018 has observed that learned Arbitrator has sent a letter dated 09.05.2018 stating that the claimants failed to file their statement of case within the stipulated time and failed to deposit the fees towards the Arbitration.

Since the respondent-contractor has not filed claim before learned Arbitrator who has been appointed by the Supreme Court of India in view of the subsequent development, the impugned order dated 13.02.2009 in Arbitration Application No.387 of 2007 is liable to be set aside. Ordered accordingly.

It is open to the respondent as well as to the petitioner-Union of India to approach this Court in case of necessity.

The special leave petition is accordingly disposed of.

Pending applications, if any, shall also stand disposed of.

(MAHABIR SINGH)
AR-cum-PS

(BEENA JOLLY)
BRANCH OFFICER