

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL Nos.9834-9835 OF 2011

M/S.TASHKENT STONE CRUSHERS

... APPELLANT

Versus

HIMACHAL PRADESH STATE ELECTRICITY BOARD

... RESPONDENT

O R D E R

1. These appeals are directed against the order dated 18.06.2018 passed by the High Court of Himachal Pradesh in F.A.O. No. 104 of 1994 and FAO No. 513 of 2007, whereby a Division Bench of the High Court modified the judgment dated 19.11.1993 passed by the learned Single Judge of the High Court of Himachal Pradesh, and held that the appellant was entitled to a principal amount of Rs.2,91,864/- from the respondent, and simple interest on the same at the rate of 18% per annum from 27.01.1990 to 19.11.1993, and at the rate of 9% per annum from 19.11.1993 till realization of the whole amount. It is pertinent to note that the learned Single Judge had, *vide* the judgment dated 19.11.1993, modified the earlier order dated 27.01.1990 of the learned Arbitrator.

2. Heard Mr.Manoj Swarup, learned senior counsel for the appellant, and Mr.Gaurav Sharma, learned counsel for the respondent, at length.

3. Having heard the learned counsels and perusing the material placed before us, we find that the underlying dispute in the matter pertains to an agreement dated 26.05.1982 between the Appellant-Claimant and the Respondent Board for supply of Crushed Aggregate for the construction of the Binwa Hydel Project. Certain disputes arose in June 1984, between the parties regarding non-payment by Respondent to the Appellant for works executed under the aforesaid agreement with the Appellant seeking a reference of the dispute to an arbitrator.

4. Ultimately, the Arbitrator, *vide* a non-speaking order dated 27.01.1990, awarded a sum of Rs.9,16,080 in favor of the appellant, with simple interest at the rate of 24% per annum from the date of award upto the date of actual payment or the date of the decree, whichever was earlier.

5. Aggrieved by the said order, the Respondent filed objections in the Original Suit filed by the Appellant to make the award dated 27.01.1990 by the Arbitrator a rule of the Court. The learned Single Judge of the High Court, *vide* order dated 19.11.1993, segregated the amount awarded into its principal and interest components and held that the principal amount the appellant was entitled to amounted to Rs.2,91,864, with the remaining portion of the award, *i.e.*, Rs.7,71,456.30, being the interest awarded by the Arbitral Tribunal upto the date of the award. The learned Single Judge, holding that that sum awarded as interest by the Arbitral Tribunal was disproportionate, set aside the same and instead granted simple interest at the rate of 18% for

the period from 01.07.1984, which was the period the work was completed, to 19.11.1993.

6. Dissatisfied with the order of the learned Single Judge, both the parties approached the Division Bench of the High Court in appeal(s), which, as discussed above, held that the appellant is entitled to a principal amount of Rs.2,91,864/- from the respondent and simple interest at the rate of 18% per annum from 27.01.1990 to 19.11.1993, and at the rate of 9% per annum from 19.11.1993 till realization of the whole amount. The learned Division Bench therefore did not grant any interest prior to the passing of the award dated 27.01.1990 by the learned Arbitrator, on the ground that the same was not granted by the learned Arbitrator. Additionally, the learned Division Bench also differentiated between the rate of interest prior to the passing of the judgment of the learned Single Judge, and the rate of interest subsequent to the passing of the same, on the basis that the rate of interest fell in the middle of the 1990s.

7. In our opinion, the above reasoning of the learned Division Bench of the High Court for interfering with the interest awarded does not pass scrutiny, particularly when the learned Division Bench has affirmed the determination of the principal amount by the learned Single Judge. Moreover, during the course of hearing, it has been brought to our notice by the learned senior counsel for the appellant that the respondent has already honored the order passed by the learned Single Judge and paid the amount by the Single Judge on 15.03.1994 itself.

8. In view of the above, we are of the considered opinion that there was no reason for the Division Bench of the High Court to modify the learned Single Judge's holding regarding the rate of interest awarded.

9. Taking into consideration the facts and circumstances of the present case, we are of the view that the learned Single Judge of the High Court has passed a reasoned order. We accordingly set aside the impugned order dated 18.06.2018 passed by the Division Bench of the High Court and uphold the judgment dated 19.11.1993 passed by the learned Single Judge of the High Court.

10. The appeals stand allowed in the above terms.

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

.....J.
(MOHAN M.SHANTANAGOUDAR)

.....J.
(AJAY RASTOGI)

NEW DELHI;
JULY 25, 2019.

ITEM NO.104

COURT NO.3

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 SCivil Appeal No(s).9834-9835/2011

M/S. TASHKENT STONE CRUSHERS

Appellant(s)

VERSUS

HIMACHAL PRADESH STATE ELECTRICITY BOARD

Respondent(s)

Date : 25-07-2019 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
HON'BLE MR. JUSTICE AJAY RASTOGIFor Appellant(s) Mr.Manoj Swarup, Sr.Adv.
Mr.Neelmani Pant, Adv.
Mr.Ajay Kumar, AORFor Respondent(s) Mr.Gaurav Sharma, Adv.
For Mr.Naresh K. Sharma, AORUPON hearing the counsel the Court made the following
O R D E R

The appeals stand allowed in terms of the signed order.

(SATISH KUMAR YADAV)
AR-CUM-PS(RAJ RANI NEGI)
ASSISTANT REGISTRAR

(Signed order is placed on the file)