

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 419 OF 2018

(Arising out of S.L.P. (C) No. 31532 of 2010)

K. SUGUMAR & ANR.

APPELLANT(S)

VERSUS

HINDUSTAN PETROLEUM
CORPORATION LTD & ANR.

RESPONDENT(S)

O R D E R

1. Leave granted.
2. The challenge herein is to the Order of the High Court by which the Order of the learned trial Court dismissing the application under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') filed by the respondents has been reversed by the High Court in an appeal under Section 37 of the Act. Consequently, the Award passed in favour of the appellants by the learned Arbitrator has been set aside.
3. The contours of the power of the Court under Section 34 of the Act are too well established to require any reiteration. Even a

bare reading of Section 34 of the Act indicates the highly constricted power of the Civil Court to interfere with an arbitral award. The reason for this is obvious. When parties have chosen to avail an alternate mechanism for dispute resolution, they must be left to reconcile themselves to the wisdom of the decision of the arbitrator and the role of the Court should be restricted to the bare minimum. Interference will be justified only in cases of commission of misconduct by the arbitrator which can find manifestation in different forms including exercise of legal perversity by the arbitrator.

4. In the present case, we have considered the award of the arbitrator and the order of the learned trial court refusing to set aside the same in exercise of jurisdiction under Section 34 of the Act.

5. The jurisdiction of the High Court in appeal under Section 37 of the Act would naturally be limited to what has been conferred under Section 34 of the Act insofar as an appeal against an order setting aside or

refusing to set aside the award is concerned.

6. A reading of the materials placed on record, including the award and the order passed under Section 34 of the Act, would disclose that the view taken by the arbitrator is on a consideration of the evidence and materials placed before him and the conclusion that the respondents are liable to compensate the appellants is a possible and reasonable conclusion. This is precisely what has been held by the Court while exercising jurisdiction under Section 34 of the Act. If that is so, we do not see how in an appeal under Section 37 of the Act, the High Court could have reappreciated the evidence to come to a contrary finding. The High Court was not sitting in appeal over the award of the arbitrator but it is the order passed under Section 34 of the Act, which was the subject matter of challenge before the High Court. The High Court seems to have missed the subtle difference between the two jurisdictions and thereby committed an error which would require

to be corrected in this appeal.

7. We, accordingly, set aside the order of the High Court and affirm the award and the order passed by the learned trial court under Section 34 of the Act. The appeal, consequently, is allowed.

8. We have been informed at the Bar that while this appeal had remained pending, in pursuance to the order of the High Court, the amount covered by the award has been realised from the appellants by the respondents. If that be so, the appellants would be entitled to restitution of the amount which would be paid to them forthwith.

.....J.
(RANJAN GOGOI)

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

NEW DELHI;
JANUARY 16, 2018

ITEM NO.14

COURT NO.3

SECTION XII

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). 31532/2010
(Arising out of impugned final judgment and order dated 9.6.2010
in CMA (NPD) No. 1504/2008 passed by the High Court of Judicature
at Madras)

K. SUGUMAR & ANR.

Petitioner(s)

VERSUS

HINDUSTAN PETROLEUM CORPORATION LTD & ANR.

Respondent(s)

(IA No.69933/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA
No.69935/2017-EXEMPTION FROM FILING O.T.)

Date : 16-01-2018 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Mr. V. Prabhakar, Adv.
Ms. Jyoti Parasher, Adv.
Mr. N.J. Ramchandar, Adv.
Mr. R. Chandrachud, AOR

For Respondent(s) Mr. Anil Kumar Mishra, Adv.
Mr. Parijat Sinha, AOR
Mr. Rudra Dutta, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.
Consequently, all pending applications are disposed of.

(SUSHIL KUMAR RAKHEJA)
COURT MASTER (SH)

(ASHA SONI)
BRANCH OFFICER

(Signed order is placed on the file.)