

NIRMA LTD. A  
v.  
M/S. LURGI LENTJES ENERGIETECHNIK GHBH AND ANR.

JANUARY 14, 2002

[R.C. LAHOTI AND K.G. BALAKRISHNAN, JJ.] B

*Arbitration and Conciliation Act, 1996 :*

*Ss. 37(2) and (3)—Appellate order—Revision against before High Court—Maintainability of—Held, special leave petition would not be entertained in as much as an efficacious alternate remedy is available to the petitioner by way of filing a revision in the High Court under s. 115 of the Code of Civil Procedure. Merely because a second appeal against an appellate order is barred by the provisions of sub-s. (3) of s. 37, the remedy of revision does not cease to be available to the petitioner, for the City Civil Court deciding an appeal under sub.s. (2) of s. 37 remains a court subordinate to the High Court within the meaning of s. 115 of the C.P.C.—Code of Civil Procedure, 1908—S. 115—Constitution of India—Article 136.* C

*Shyam Sunder Agarwal and Co. v. Union of India, [1996] 2 SCC 132, relied on.* D

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 22106 of 2001. E

From the Judgment and Order dated 21.8.2001 of the City Civil Court at Ahmedabad in C.M.A.No. 155 of 2001. F

Ashok Desai, Dr. A.M. Singhvi, D.A. Dave, P.S. Shroff, Sunil Dogra, Jayant Mehta for Suresh A. Shroff and Co. for the Petitioner.

P. Chidambaram, Robin Jaisinghani and Shyel Trehan for Ms. Indu Malhotra for the Respondents. G

The following Order of the Court was delivered :

This is a petition under Article 136 of the Constitution of India, seeking leave to file civil appeal against an appellate order of City Civil Court No. 11 H

- A Ahmedabad, 'passed under sub-Section (2) of Section 37 of the Arbitration and Conciliation Act, 1996. We are not inclined to entertain this special leave petition inasmuch as, in our opinion, an efficacious alternate remedy is available to the petitioner by way of filing a revision in the High Court under Section 115 of the Code of Civil Procedure. Merely because a second appeal against an appellate order is barred by the provisions of sub-Section (3) of Section 37, the remedy of revision does not cease to be available to the petitioner, for the City Civil Court deciding an appeal under sub-Section (2) of Section 37 remains a court subordinate to the High Court within the meaning of Section 115 of the C.P.C. In taking this view, we find support from a decision of this Court in *Shyam Sunder Agarwal and Co. v. Union of India*, [1996] 2 SCC 132.

The special leave petition is, therefore, dismissed. The petitioner may file a revision before the High Court and in calculating the limitation, the petitioner shall be entitled to exclusion of time spent in this Court, i.e., between the date of filing of the special leave petition and today.

D

R.P.

Petition dismissed.