

PURI CONSTRUCTIONS PVT. LTD.

A

v.

STATE OF MADHYA PRADESH & ORS.

(Civil Appeal No. 4261 of 2018)

APRIL 18, 2018

B

[ADARSH KUMAR GOEL AND R. F. NARIMAN, JJ.]

Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983:

*Jurisdiction of Arbitration Tribunal – Award passed by Arbitrator appointed by Delhi High Court – Execution of award allowed – Appeal against the execution order pending before Delhi High Court as the same had been deferred by High Court pending decision of Supreme Court by Larger Bench in *L.G. Chaudhary case – Held: In terms of decision by Larger Bench of Supreme Court, the decision of the dispute between the parties has to be settled in accordance with the 1983 Act – In view of the fact that award was passed long back and matter is pending for execution, it is directed that award would be treated to have been passed under 1983 Act – The pending proceedings before Delhi High Court transferred to Madhya Pradesh High Court to be treated as Revision Petition under 1983 Act – The other pending proceedings shall be transferred to Arbitration tribunal constituted under 1983 Act – Appeals disposed of.*

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Madhya Pradesh Rural Road Development Authority and Anr. v. L.G. Chaudhary Engineers and Contractors (2012) 2 SCC 495 : [2012] 2 SCR 162 – referred to.

F

Case Law Reference

[2012] 2 SCR 162 referred to Para 4

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 4261 of 2018.

G

From the Judgment and Order dated 19.07.2012 of the High Court of Delhi at New Delhi in FAO (OS) No. 23 of 1998.

Saurabh Mishra, AAG, Jugal Kishore Gilda, Purushendra Kumar, Advs. Gen., Naman Nagrath, Neeraj Kishan Kaul, Parag Triathi, Ms.

H

- A Kiran Suri, Sr. Advs., Harsh Parashar, Jubin Prasad, Aman Pandey, Jasdeep S. Dhillon, Prabhat K. Chaurasia, Ms. Renuka Sahu, Jay Savla, Amar Varun, Shantanu Krishna, Ms. Anusuya Salwan, Dhurav Mishra, Divyanshu Kumar Srivastav, Akash Lamba, Viren Sibal, Vivekananda B., Vikas Sood, Apporv Kurup, Ms. Isha Mital, Dr. Harsh Pathak, Ms. Shweta Mahajan, Mohit Chaubey, Siddharth Shukla, Neeraj Shekhar,
- B Arjun Garg, Mishra Saurabh, Sridhar Potaraju, Sudhir Mishra, Prabhat Kumar, Ms. Petal Chandok, Ms. Ankita Sharma, Rishabh, M. R. Shamshad, Aditya Samaddar, B. S. Banthia, Ms. Swarupama Chaturvedi, Saurabh S. Sinha, Aditya Dev Triguna, Sunil Singh Parihar, M/S. AP & J Chambers, Prafulla Kumar Behera, Manish K. Bhardwaj,
- C S. S. Nehra, Ms. Anuradha Mishra, Ms. Vanshaja Shukla, Varun Mohan, Swastik Singh, Arjun Garg, Manish Yadav, Ms. Swarupama Chaturvedi, B.N. Dubey, Ms. Devika Gulati, Hitendra Nath Rath, Mayank Kshirsagar, Pavesh Joshi, Chavu Ambwani (For M/S. AP & J Chambers), B. K. Satija, Sumit Attri, K. Krishna Kumar, Hitendra Nath Rath, Nilava Bandyopadhyay, Rahul Pandey, Advs. for the appearing parties.
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The following Order of the Court was passed:

ORDER

- E 1. Delay condoned. Leave granted.
2. We have heard learned counsel for the parties and perused the record.
- F 3. An agreement was executed between the parties on 11th May, 1984 for construction of Assembly building in the State of Madhya Pradesh. Dispute arose from the agreement. The High Court of Delhi appointed an arbitrator vide order dated 13th December, 1988. The Arbitrator gave the award on 21st June, 1989 which was made Rule of the Court by Delhi High Court on 28th September, 1989. Execution proceedings were taken by the appellant. Learned Single Judge allowed the execution vide Order dated 6th September, 1991 against which an
- G appeal was filed before the Division Bench of the High Court.
- H 4. The Division Bench vide order dated 5th July, 2012 directed that the enforceability of the decree will depend upon the fate of another appeal which was pending between the parties. The said appeal, FAO (OS)No.23/1998, is still pending but the High Court has deferred the

same pending decision of larger Bench of this Court in pursuance of judgment of this Court in Madhya Pradesh Rural Road Development Authority and Anr. v. L.G. Chaudhary Engineers and Contractors, (2012) 3 SCC 495. It may be noted that the larger Bench has decided the matter on 8th March, 2018. In terms of the said decision the dispute between the parties has to be settled in accordance with the provisions of the M.P. Madhyastham Adhikaran Adhinyam, 1983 (M.P. Act).

5. However, since in the present case the award has been rendered long back which was not challenged by the respondents and the matter is pending at the stage of execution, we direct that the award be treated to have been rendered under the M.P. Act.

6. In view of above, we transfer pending proceedings before Delhi High Court being FAO (OS)NO.23/1998 and connected matters to High Court of Madhya Pradesh at Jabalpur to be treated as revision petition under the M.P. Act.

7. Another dispute between the parties was referred to arbitration vide order dated 19th May, 1993. However, before the arbitration proceedings could be decided the arbitrators are said to have expired.

8. In the circumstances pending Arbitration proceedings shall stand transferred to the M.P. Arbitration Tribunal under the M.P. Act, to be dealt with as per provisions of the M.P. Act in accordance with law. The proceedings may be carried out in continuation of earlier proceedings.

9. The parties may take steps by moving the High Court or any other forum for transfer of records to the transferee courts in the light of this Order.

10. The appeal is accordingly disposed of.

11. The parties may appear before the High Court/Tribunal for further proceedings on 9th July, 2018.