

CASE NO.:
Appeal (civil) 1101 of 2002

PETITIONER:
GOVIND PRASAD AGARWAL

RESPONDENT:
STATE OF JHARKHAND & ANR

DATE OF JUDGMENT: 14/02/2008

BENCH:
H.K. SEMA & MARKANDEY KATJU

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO. 1101 OF 2002

This appeal is directed against the judgment and order of the High Court dismissing the claim of the appellant being barred by limitation.

Briefly stated the facts are as follows.

A contract was entered into between the appellant and the respondent sometimes in the year 1981. Work order was issued to the appellant on 27/3/1981. The period for completion of the work was, however, extended upto 30/6/1985. On 10/12/1985, the appellant made a claim for payment of certain amount. The respondents did not reply to the claim. Ultimately, on 10/4/1991, the appellant filed an application under Section 20 of the Arbitration Act, 1940. The High Court in these circumstances held that under Article 137 of the Limitation Act 1963, the period of limitation provided is for three years from the time when the right to apply accrues and, therefore, the application was barred by time.
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In the present case, undisputedly, the right to apply accrued on 10/12/1985. Section 20 application was filed on 10/4/1991. In our view, therefore, it is clearly barred by the limitation under Article 137 of the Limitation Act which prescribes for three years.

This apart, the question raised in the present dispute is squarely covered by the decision of this court rendered in Steel Authority of India Ltd. Vs. J.C. Budharaja, Government and Mining Contractor, (1999) 8 SCC 122, particularly paragraph 27 of the judgment.

Learned counsel for the respondent referred to a decision rendered by this Court in Union of India & Ors. Vs. M/s. L.K. Ahuja & Co., AIR 1988 SC 1172. Learned counsel for the appellant referred to paragraph 8 of the judgment. The facts of this case is not applicable in the facts of the present case. In that case, the claim for reference was made within three years commencing from 16/4/1976 and the application was filed under Section 20 on 18/12/1976, i.e. within eight months.

In the result, this appeal, being devoid of merit, is, accordingly, dismissed. No costs.