

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 189 OF 2010
(Arising out of SLP [C] No.13567 of 2009)

C.M.C. Ltd.

... Appellant

Vs.

Madhya Pradesh Stock Exchange & Anr.

... Respondent

O R D E R

Leave granted. Heard the counsel.

2. An Arbitral award dated 20.10.2003 was made in favour of the appellant in a claim against the first respondent. The first respondent filed an application under Section 34 of the Arbitration and Conciliation Act, 1996 ('Act' for short) for setting aside the said award. The said application was dismissed for non-prosecution on 27.6.2006. The first respondent filed an application under Order IX, Rules 4 and 9 read with section 151 of Code of Civil Procedure ('Code' for short) for setting aside the dismissal. The appellant raised a preliminary objection that the petition was not maintainable. Learned Additional District Judge, Indore, before whom the said application was made by order dated 5.8.2008, held that the application for

setting aside the dismissal, was maintainable. The appellant challenged the said order by filing a writ petition before the Madhya Pradesh High Court. The High Court, by the impugned order dated 12.12.2008 dismissed the writ petition filed by the appellant holding that the appropriate remedy was by way of revision under Section 115 of CPC. The said order is challenged in this appeal by special leave.

3. After the matter was heard for some time, the learned counsel for the appellant submitted that the matter has been pending for nearly six years after the award, and to avoid any further delay and to ensure that the proceedings under Section 34 were completed expeditiously, the appellant will have no objection for the dismissal for non-prosecution, being set aside and the application under Section 34 being restored to file, provided the first respondent agreed to co-operate with the Court for summary disposal of the proceedings.

4. This Court in *Fiza Developers & Inter-Trade (P) Ltd. V. AMCI (I) Pvt. Ltd. & Anr.* 2009 (11) SCALE 371, has held that having regard to the object of the Act, which was to provide expeditious alternative binding dispute resolution process with the minimal court intervention, proceedings under Section 34 of the Act, are intended to be summary proceedings and not full fledged trials in the manner of civil suits under the Code. In view of it, learned counsel

for the first respondent did not dispute the position that the proceedings under Section 34 will have to be disposed of expeditiously and assured that the first respondent will cooperate with the civil court for early disposal of the proceedings under Section 34 of the Act, as summary proceedings.

5. In view of the above, there is no need to examine the question of law raised in this appeal (relating to maintainability of writ petition) on merits. By consent and in exercise of our power to do complete justice, we set aside the order dated 27.6.2006 dismissing the first respondent's application under Section 34 of the Act, allow the same and restore A.C No. 1/2005 to file with a request to the learned Addl. District Judge, Indore to dispose of the said application under Section 34 of the Act expeditiously, preferably within four months. As a consequence the proceedings in MJC 14/2006 on the file of the 15th Addl. District Judge, Indore shall stand disposed of. Appeal is disposed of accordingly.

.....J.
(R V Raveendran)

New Delhi;
January 8, 2010.

.....J.
(K S Radhakrishnan)