

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2108 OF 2007

TAMIL NADU ELECTRICITY BOARD

... APPELLANT(S)

:VERSUS:

HINDUSTAN CONSTRUCTION CO. LTD. AND ORS.

... RESPONDENT(S)

ORDER

The appellant entrusted certain construction work to the first respondent. On account of non-settlement of its claims, the first respondent raised some disputes which were referred to arbitration. Respondent Nos. 2 & 3 appointed as arbitrators, entered upon the reference on 20.5.1992 and made an award dated 19.6.1998. The arbitrators suo motu filed their award before the High Court on 26.10.1999. It was registered as O.P No. 150/2000.

2. On receiving the notice of filing of the award the first respondent also made an application (Appln.No.2731/2000) in O.P.No. 150/2000 for making the award, a rule of the court. On the other hand the appellant contended that the court should not take cognizance of the award, that unless the parties or either of them requested the arbitrators to file the award into court, or the court directed them to file the award, the arbitrators could not file the award in court, nor could the court receive the award. Reliance was placed reliance upon sub-sections (1) and (2) of Section 14 of the Arbitration Act, 1940('Act' for short) in support of the said contention. Appellant also contended that under Article 119(a) of the Limitation

Act, 1963, the period of limitation to file an application under the Act, for filing the award in court, was 30 days from the date of service of notice of making of the award; and if such an application was not filed by a party under section 14(2) of the Act, within 30 days of service of notice, the award could not be filed thereafter, being barred under Article 119(a) of Limitation Act, 1963. A learned Single Judge of the Madras High Court, by the impugned order dated 15.6.2006, negated the contentions of the appellant and held that the award could be filed *suo motu* by the Arbitrators and received by the court. The said order is challenged in this appeal by special leave.

3. Sub-sections (1) and (2) of Section 14 of the Act, relevant for our purpose is extracted below:

14. Award to be signed and filed:

“1. When the arbitrators or umpire have made their award, they shall sign it, and shall give notice in writing to the parties of the making and signing thereof and of the amount of fees and charges payable in respect of the arbitration and award.

2. The arbitrators or umpire shall, at the request or any party to the arbitration agreement or any persons claiming under such party or if so directed by the Court and upon payment of the fees and charges due in respect of the arbitration and award and of the costs and charges of filing the award, cause the award or a signed copy of it, together with any depositions and documents which may have been taken and proved before them, to be filed in Court, and the Court shall thereupon give notice to the parties of the filing of the award.”

XXXXX XXXXXXX

4. This Court in *State of Madhya Pradesh v. M/s. Saith & Skeleton (P) Ltd. & Ors* - AIR 1972 SC 1507, while interpreting Section 14 of the Act, held that it was not correct to say that the award could be filed only if the parties make a request to the arbitrator to file the award or make an application to the court for that purpose, when there is no prohibition in the Act, particularly, in Section 14(2), against the arbitrator *suo motu* filing an award in court. In *Champalal v. Mst.*

Samrathbai - AIR 1960 SC 629 this court, while considering Article 178 of the Limitation Act, 1908 (corresponding to Article 119 (a) of the Limitation Act, 1963) held that the said article would apply only when an application is made by any of the parties for filing the award, and not when the arbitrator himself *suo motu* files the award into court. It is well settled that the act of arbitrator filing the award in court cannot be characterized as an application to the court under Article 14(2) of the Act which is referred to in Article 119(a) of the Limitation Act, 1963. In the circumstances, the High Court was right in rejecting the contentions of the appellant and receiving the award.

5. Learned counsel for the appellant submitted that the first respondent in its application (No. 2731/2000) dated 13.7.2000 filed in O.P. No. 150/2000, had admitted that it had made a request to the arbitrators to file the award in court. Appellant contends that after the expiry of the period of limitation for filing an application seeking a direction to the arbitrators to file the award, the first respondent had requested the arbitrators to file the award into court, and this was an attempt by the first respondent to circumvent the provisions of section 14(2) of the Act and Article 119(a) of the Limitation Act, 1963.

6. Firstly there is nothing in the application to show when such a request was made by the respondent, to the arbitrators – whether within thirty day of receiving notice of making of the award, or after the expiry of thirty days. Secondly what was barred by limitation after thirty days, was making of an application to the court seeking a direction to the arbitrator to file the award. But even that was subject to condonation of delay by the court, as period of limitation could be extended if sufficient cause was shown under Section 5 of the Limitation Act, 1963. Thirdly, there was no bar to a party making a request to the arbitrators to file the award even after 30 days, or for the arbitrators acting on the request of the party, or *suo*

motu filing the award into court. As there is no limitation prescribed for the arbitrator to file an award, the court would entertain it, unless it was of the view that the period between the date of award and filing of the award was so huge as to attract the principle of denial of relief on the ground of delay and laches. In this case the delay was not of such magnitude, so as to invite refusal by court to receive it.

7. We, therefore, find no reason to interfere with the order of the High Court. The appeal is dismissed.

.....J
(R.V. RAVEENDRAN)

.....J
(HARJIT SINGH BEDI)

NEW DELHI,
APRIL 21, 2009.



JUDGMENT