

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 926-927 OF 2002

UNION OF INDIA

Appellant (s)

VERSUS

CHANDALAVADA GOPALAKRISHNA MURTHY & ORS.

Respondent(s)

ORDER

These appeals are directed against the judgment and order dated 8th May, 2001 passed by the Division Bench of the Andhra Pradesh High Court.

We have heard the parties at length.

In view of the order that we propose to pass, it is not necessary to recite the entire facts leading to the filing of the present appeal. Suffice it to say that a contract was entered into between the appellant and the respondent regarding the construction of laboratory, Officers' room and class room at Indian Railway Institute, Secunderabad. Agreement was entered into on 31.01.1981. According to the agreement, the contract was to be completed within a period of 9 months i.e. upto 27th October, 1981. It is stated that

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on request made by the contractor/respondent extension of time was granted under

clause 17(3) of the general conditions of the contract. Ultimately, the contract was completed on 31st August, 1983. A dispute arose between the parties and the respondent made various claims under 7 heads and demanded for arbitration. The arbitrator granted Award under all 7 heads. The Award was filed before the City Civil Court. The City Civil Court made the award a rule of the court in respect of claim No.2 to 6 but set aside the Award regarding item No. 1 and 7. Aggrieved thereby, the respondent filed an appeal before the Division Bench of the High Court and by the impugned order the Division Bench maintained the order of the Civil Court with regard to item No.7. However, the Division Bench allowed the claim under item No.1. Hence, the present appeals.

The dispute now to be resolved is confined only to item No.1 of the claim. To answer this question, we may refer to clause 17(3) of the contract. Clause 17(3) reads:

“Clause 17(3): In the event of any failure or delay by the Railway to hand over to the contractor possession of the lands necessary for the execution of the works or to give the necessary notice to commence the works or to provide the necessary drawings or instructions or any other delay caused by the

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Railway due to any cause, whatsoever, the said failure or delay shall in no way effect or vitiate the Contract or alter the character thereof or entitle the contractor to damages of compensation thereof but in any such case, the Railway may grant such extension of extensions of the completion date as may be considered reasonable.“

Clause 17(3) reads thus clearly shows that if there is delay by the Railways the terms of the contract can be extended as has been done in the present case. However,

the contractor shall not be entitled to damages or compensation.

A similar question raised before this Court was considered by a three-Judge Bench of this Court in Ch. Ramalinga Reddy Vs. Superintending Engg. & Anr. 1999 (9)SCC 610. This Court held in that case that if the contract is extended under the terms of the contract, compensation cannot be awarded by the Arbitrator. The aforesaid judgment has been followed in another decision of this Court in General Manager (Northern Railway) & Anr. Vs. Sarvesh Chopra 2002(4)SCC 45.

Learned counsel for the respondent referred to the judgment rendered by this Court in the case of K.R. Raveendranathan Vs. State of Kerala 1998(9) SCC 410. The

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said decision is not applicable in the facts of the present case. For the reasons aforestated, the case in hand is squarely covered by two decisions of this Court. In the result, the order of the High Court is not tenable in law and is accordingly set aside.

The appeals are allowed.

No costs.

.....J
(H.K. SEMA)

.....J
(MARKANDEY KATJU)

New Delhi;
April 10, 2008.