Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 10336 of 2023

Petitioner :- Margoob Ahmad And Another
Respondent :- Project Director Dedicated Front Corridor And Another
Counsel for Petitioner :- Mohd Aamir
Counsel for Respondent :- C.S.C.,Pranjal Mehrotra

Hon'ble Jayant Banerji,J.

1. Heard learned counsel for the petitioner and Shri Pranjal Mehrotra, learned counsel appearing for the respondent no. 1. Respondent no. 2 is represented by learned Standing Counsel.

2. This petition has been filed seeking setting aside the order dated 26.7.2023 passed by the Special Sessions Judge, SC/ST Court, District Hapur, whereby an application 16C filed by the petitioners under Section 5 of the Limitation Act read with Section 41 Rule 3A of the CPC moved regarding filing of an application under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act, 1996') has been rejected.

3. On record of this petition, neither the copy of the application moved under Section 34 of the Act, 1996 nor the application filed under Section 5 of the Limitation Act have been enclosed.

4. Shri Pranjal Mehrotra, learned counsel has raised a preliminary objection with regard to the maintainability of the petition on the ground that even against an order rejecting an application under Section 5 of the Limitation Act or an order refusing to condone delay in filing an application under Section 34 of the Act, 1996, would be appealable under Section 37(1)(c) of the Act, 1996. In support of his contention, learned counsel for the National Highways Authority of India has cited the judgment of the Supreme Court in **Chintels India Limited Vs. Bhayana Builders Private Limited** reported in **(2021) 4 SCC 602**. The paragraph no. 40 of the aforesaid judgment reads as follows:

"40. Consequently, the question of law is answered by stating that an appeal under Section 37(1)(c) of the Arbitration Act, 1996 would be maintainable against an order refusing to condone delay in filing an application under Section 34 of the Arbitration Act, 1996 to set aside an award."

5. Therefore, this petition is not maintainable inasmuch as it is admitted to the petitioners that the application under Section 34 of the Act, 1996 was filed beyond the period of limitation even after excluding the extended period of limitation provided in the order dated 10.1.2022 passed by the Supreme Court in Suo Moto Writ Petition (C) No. 3 of 2020.

6. This petition is, accordingly, **dismissed**.

Order Date :- 8.12.2023
A. V. Singh

(Jayant Banerji, J.)

Digitally signed by :-
AJAY VIKRAM SINGH
High Court of Judicature at Allahabad