

GAHC010266752022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP/138/2022

KRISHNA DEVI @ SABITRI DEVI (RANI),
M/S. S.R. ENGINEERING CONSTRUCTION, P.O. HALLESWAR, TEZPUR, PIN-
784001.

VERSUS

UNION OF INDIA AND 2 ORS
THROUGH THE SECRETARY, MINISTRY OF DEFENCE, NEW DELHI-10.

2:THE COMMANDER WORKS ENGINEER
AF
BORJHAR
GHY-781015.

3:THE GARRISON ENGINEER
AIRFORCE
TEZPUR-784104

For the Applicant(s) : Ms. A. Roy, Advocate

For the Respondent(s) : Mrs. A. Gayan, C.G.C.

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 27.03.2024

1. This is an application challenging the order dated 23.11.2022 passed in Misc. (J) Case No.61/2022 whereby the learned District Judge, Sonitpur at

Tezpur held that the filing of the objection by the Respondents herein was within the period of limitation in terms with Article 119 of the Limitation Act, 1963.

2. The facts which can be discerned from the materials on record is that the Petitioner herein filed an application under Section 38 of the Arbitration Act, 1940 before the Court of the learned District Judge, Sonitpur at Tezpur stating inter alia that on account of non-deposit of the arbitration fee by the Respondents herein, the arbitration award was not published by the Arbitrator and as such, sought for direction that the Respondents herein be directed for payment of the arbitration fee and the consequent publishing of the arbitration award.

3. On the basis of the said application, the Court of the learned District Judge, Sonitpur at Tezpur vide an order dated 21.09.2022 directed the Respondents herein to deposit the said amount of Rs.47,212.33/- in the Court and a copy of the award may be furnished to the Respondents. It was also mentioned that a copy of the award be also furnished to the Petitioner forthwith.

4. Pursuant thereto, on 18.11.2022, the Respondents duly deposited the said amount of Rs.47,212.33p before the Court vide a Cheque bearing No.130886 dated 21.11.2022. On the next date, the objection was filed as regards the setting aside the award or getting the award remitted for reconsideration, by the Respondents. This filing of the objection by the Respondents was objected to by the Petitioner herein before the Court of the learned District Judge, Sonipur at Tezpur on the ground that the said application was filed belatedly.

5. The learned District Judge, Sonitpur at Tezpur vide the impugned order dated 23.11.2022 came to a finding that as the notice of filing of the award was

served upon the Respondents herein on 18.11.2022 and as such filing the written objection on 22.11.2022 was within the period of limitation. This order has been put to challenge by way of the instant proceedings.

6. This Court having taken note of the mentioned facts and also upon perusing Sections 14 and 17 of the Arbitration Act, 1940 as well as Article 119 of the Schedule to the Limitation Act, 1963 is of the opinion that the learned Court of the District Judge, Sonitpur at Tezpur has not erred in law or had committed any error in passing the impugned order. Accordingly, this Court finds no merit in the instant petition for which the instant petition stands dismissed.

JUDGE

Comparing Assistant