

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 193

FAO.No. 80 of 2014 ()

AGAINST THE ORDER/JUDGMENT IN I.A.NO.196 OF 2012 IN OP (ARB)
NO.2134/2008 OF I ADDL.DISTRICT COURT, ERNAKULAM
DATED 25-05-2013)

APPELLANT(S)/PETITIONERS:/CLAIMANTS

1. STATE OF KERALA
REPRESENTED BY ITS CHIEF SECRETARY,
SECRETARIAT,
THIRUVANANTHAPURAM.
2. PRINCIPAL SECRETARY TO GOVERNMENT,
FOREST & WILDLIFE DEPARTMENT,
GOVERNMENT OF KERALA
THIRUVANANTHAPURAM.
3. THE CHIEF CONSERVATOR OF FORESTS (PROTECTION)
FOREST HEAD QUARTERS
VAZHUTHACAUD, THIRUVANANTHAPURAM.
4. THE DIVISIONAL FOREST OFFICER
DIVISIONAL FOREST OFFICE, KODANADU,
MALAYATTOOR.

BY ADV. M.P.MADHAVANKUTTY,
SPL.GOVERNMENT PLEADER FOR FOREST DEPT.

RESPONDENT(S)/RESPONDENT/RESPONDENT:

HINDUSTAN NEWSPRINT LTD.,
NEWS PRINT NAGAR, VELLOOR, KOTTAYAM-686 616.

R1 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
R1 BY ADV. SRI.P.GOPINATH
R1 BY ADV. SRI.P.BENNY THOMAS
R1 BY ADV. SRI.K.JOHN MATHAI

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR
ADMISSION ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN &
SUNIL THOMAS, JJ.

.....
FAO No.80 of 2014
and
C.M.Appl.No.229 of 2014
.....
Dated this the 6th day of July, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

- 1.Learned standing counsel appears for the respondent.
- 2.Respondent is a public sector undertaking, namely Hidustan Newsprint Limited. This appeal is by the State.
- 3.There is a contract between the respondent and the State under which there are certain obligations which generate eligibility of the State to royalty for certain classes of wood used in the newsprint industry. That led to an arbitration award. The State filed an application under the Arbitration and Conciliation Act, 1996 challenging that award. The matter was listed on a day when there was some restriction in public movement of traffic.

The learned Government Pleader did not appear on that day. The case was adjourned to another day, on which day both sides were not ready to argue the matter. The court below dismissed the application challenging the award, for default. The application filed seeking restoration of that original petition and the application seeking condonation of delay of 23 days were also dismissed. That leads to the appeal in hand. There is a delay of 113 days in filing the present appeal.

4. On hearing the learned counsel for the parties, we are of the view that the challenge of the State to the arbitration award ought to have been considered on merits. We are also of the view that the respondent, a public sector body, is also eligible to contest such challenge. The application happened to be dismissed for default, since both sides are not ready. Therefore, we take a lenient view and hold that the C.M.Application seeking condonation of delay and the FAO are to be allowed.

In the result,

- (1) C.M.Application No.229 of 2014 is allowed.
- (2) This FAO is allowed setting aside the impugned order and consequently allowing I.A.No.196 of 2012 in OP (Arb.) No.2134 of 2008 on the file of the Court of the District Judge, Ernakulam and hereby restoring OP (Arb.) No.2134 of 2008 to file. Parties are directed to mark appearance before the court below on 07.08.2015.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(SUNIL THOMAS, JUDGE)

js