

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE ANIS

C.R.P.Nos.4370 and 4818 of 2016

COMMON ORDER: *(Per Hon'ble Sri Justice Sanjay Kumar)*

C.R.P.No.4370 of 2016 under Article 227 of the Constitution was filed by the first respondent in the arbitration case bearing AOP No.119 of 2014 on the file of the Sole Arbitrator, third respondent herein, aggrieved by the order dated 13.08.2016 passed in I.A.No.Nil of 2016 in the said arbitration case.

C.R.P.No.4818 of 2016 was filed by the first respondent in the arbitration cases bearing Nos.119 to 138 of 2014 on the file of the Sole Arbitrator, the third respondent herein, aggrieved by the order dated 30.08.2016 passed in the said cases unilaterally enhancing the fee of the Advocate Commissioner to Rs.1,00,000/-.

Interim orders were granted by this Court in C.R.P.No.4370 of 2016.

While so, Sri V. Hari Haran, learned counsel for the petitioner in both the Civil Revision Petitions, was asked to explain as to how these Civil Revision Petitions would be maintainable before this Court under Article 227 of the Constitution in the light of the observations made by the Supreme Court in *SBP & CO. v. Patel Engineering Ltd*¹. The learned counsel thereupon strove to distinguish the observations made in the aforestated decision asserting that the said case arose in the context of an application under Section 11(6) of the Arbitration and Conciliation Act, 1996, and therefore, the observations to the effect that the High Courts

¹ (2005) 8 Supreme Court Cases 618

should not exercise powers under Articles 226 and 227 of the Constitution in relation to the orders passed by the Arbitral Tribunal during the arbitration, have to be read down.

However, we are not impressed with this submission.

Para 45 of the judgment in the aforesaid case makes it clear that the Supreme Court disapproved of the practice adopted by High Courts in correcting the orders passed by the Arbitral Tribunal during the arbitration under Articles 226 and 227 of the Constitution and held in no uncertain terms that such intervention by the High Courts was not permissible.

In the light of this edict of the Supreme Court, we are of the opinion that these Civil Revision Petitions under Article 227 of the Constitution in relation to the interlocutory orders passed by the Sole Arbitrator, the third respondent herein, in the course of the arbitration proceedings, cannot be subjected to revisionary jurisdiction of this Court under Article 227 of the Constitution.

The Civil Revision Petitions are therefore dismissed on this short ground. However, it is made clear that this Court has not gone into the correctness of the orders under revisions and it would be open to the petitioner to challenge the same at the appropriate stage before the appropriate forum in accordance with law.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

SANJAY KUMAR, J

Date: 01.12.2016

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