

HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL No.900 of 2018

JUDGMENT: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

The South Central Railway is in appeal before us. The respondent/writ petitioner has a supply contract with it.

2. It appears that there are different litigations between the parties in relation to different contracts. This Writ Appeal arises from an interlocutory order passed in Writ Petition No.10198 of 2018.

3. Learned counsel for the appellants argued that, notwithstanding the fact that there is an arbitration clause in the contract between the parties, the fact of the matter remains that the appellants are entitled to adjust amounts due to it under the prior contracts from amounts that may be found due to the contractor as regards the running contract.

4. Learned counsel appearing for the respondent/contractor, however, submits that there are other interlocutory orders passed by this Court touching the earlier contracts and the finality of those interlocutory orders would necessarily lead to the relief that has been granted by the learned Single Judge through the impugned order.

5. We have bestowed our anxious consideration to the facts and reasoning as reflected in the impugned order, apart from the fact that the impugned order amounts to granting of the reliefs sought for in the writ petition. Even if the writ petition and the interlocutory application would have to be considered in one go, the contested issues ought to have been answered by making reference to the pleadings and the materials on record. We are of the view that the impugned order of the learned Single Judge does not satisfy that standard of adjudication.

6. For the aforesaid reasons, without expressing anything on the merits of the rival contentions as between the parties, the impugned order is set aside. Resultantly, I.A.No.1 of 2018 in Writ Petition No.10198 of 2018 will stand restored, as available, for the learned Single Judge to consider passing interlocutory order *de novo* after considering all aspects of the matter. This will also enable the learned Single Judge to consider whether the writ petition itself would be decided finally having regard to the short compass, within which, the material disputes lie.

The Writ Appeal is accordingly allowed.

List the I.A. before the learned Single Judge on 23.07.2018.

We record the request of the respondent/writ petitioner that the learned Single Judge may expedite the further consideration of

the said I.A. or Writ Petition No.10198 of 2018, as the case may be. We also record the request of the learned counsel for the appellants that the learned Single Judge may take up the vacate petitions filed in the earlier writ petitions along with I.A.No.1 of 2018 in Writ Petition No.10198 of 2018 for consideration afresh.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

Date: 12.07.2018

RAMESH RANGANATHAN, J

kvni/vv

