

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
(COMMERCIAL DIVISION)

F.M.A.T. 474 of 2023
With
CAN 1 of 2023
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With
CAN 1 of 2023

M/s. A.S. Construction and Ors.
Vs.
Smt. Chandra Saha and Anr.

Mr. Prantick Ghosh
Mr. Prasad Bhattacharyya
Mr. Bitan Das ... For the Appellants.

Mr. Sourav Kumar Mukherjee
Ms. S. Pal **For the Respondents.**

Re: F.M.A.T. 474 of 2023

This appeal is from a judgement and order of the learned court below allowing an application of the respondents under Section 14 of the Arbitration and Conciliation Act, 1996. By virtue of this order the authority of the learned Arbitrator is terminated.

As rightly pointed out by Mr. Sourav Kumar Mukherjee, learned advocate appearing for the respondents this order is not appealable under Section 13 of the Commercial Courts Act, 2015 read with Section 37 of the Arbitration and Conciliation Act, 1996.

Hence, this appeal (FMAT 474 of 2023) is not entertained and dismissed on the ground that the appeal

is not maintainable.

The connected application (CAN 1 of 2023) is accordingly also dismissed.

We make it clear that we have not gone into the merits of the disputes between the parties. It shall be open to the appellants to challenge the impugned order in an appropriate jurisdiction.

Re: FMAT 475 of 2023

This is an appeal from a judgement and order of the learned court below in an appeal under Section 37 of the Arbitration and Conciliation Act, 1996 challenging an interim award/order passed by the learned Arbitrator under Section 17 of the Act. Here also the point of maintainability taken by Mr. Sourav Kumar Mukherjee, learned advocate appearing for the respondents succeeds on two grounds.

First, the impugned order is not an original order but an order passed on appeal from the ruling of the Tribunal from which an appeal is not maintainable under Section 13(1A) of the Commercial Courts Act, 2015.

Secondly, if the authority of the learned Arbitrator has been terminated, it would have a relator back action and any order or the interim award passed by the learned Arbitrator would also be invalid.

In those circumstances, this appeal (FMAT 475 of 2023) is also dismissed on the ground that the appeal is

not maintainable. The connected application (CAN 1 of 2023) is accordingly also dismissed.

We make it clear that we have not gone into the merits, which may be urged, in an appropriate jurisdiction.

(I.P. Mukerji, J.)

(Biswaroop Chowdhury, J.)

