



Arb.Appln.Nos.129 & 130 of 2023

Arb.Appln.Nos.129 & 130 of 2023
and O.A.Nos.181 and 182 of 2023

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KRISHNAN RAMASAMY, J.

These applications are filed to vacate the injunction granted by this Court vide order dated 08.03.2023 in O.A.Nos.181 and 182 of 2023.

2. When this matter came up for hearing on 08.03.2023, after hearing the learned counsel for the respondent herein, this Court passed the following order:

“This Application has been filed for an order of interim injunction restraining the respondents herein from either invoking or encashing the Bank Guarantee in BG.No.0993009BG1000211 and BG.No.0993009BG1000212 dated 17.09.2009 having validity up to 31.03.2023.

2. Mr.AL.Somayaji, learned Senior counsel appearing for the applicant would submit that the first respondent awarded a contract to the applicant vide Letter of Award on 25.08.2009. The said contract was completed and the performance test was also conducted as early as in August, 2018, wherein few minor defects were noticed and the same were subsequently rectified. Thereafter on 24.01.2023, the applicant sent a notice with regard to the payment, wherein he has stated that the outstanding amount, which the respondents



are liable to pay to the applicant is a sum of Rs.129.37 Crores and as on today, the bank guarantee was executed in favour of the applicant for a sum of Rs.163,37,09,800/-.

3. Under these circumstances, the first respondent issued a letter dated 06.03.2023, wherein they have stated that due to non-compliance of the contractual conditions, they are going to invoke the bank guarantee issued in favour of the first respondent for a sum of Rs.163,37,09,800/-. Therefore, the present application is filed for interim injunction on the ground that since the amount due is only from the respondents to an extent of Rs.127.29 Crores, the first respondent has no justification to invoke bank guarantee executed by the applicant in favour of the first respondent for a sum of Rs.163,37,09,800/-

4. The learned Senior counsel would further submit that the terms of the Clause 52.4 of General Conditions of Contract states as follows:

“The arbitration shall be conducted in accordance with the provisions of the Indian Arbitration Act, 1940 or any statutory modification thereof. The venue of Arbitration shall be Raipur, India. The Courts of Raipur shall have exclusive jurisdiction.”

By referring to the above provision, he would contend that the Court at Raipur has jurisdiction though no cause of action arose within the jurisdiction of Raipur Court. Further, he contend that on account of Holi Festival, all the Courts at Raipur are closed.



5. Further, he referred to the paragraph No.14 of the judgement rendered by this Court in **India Cements Capital Limited vs. Auto Pins (India) Ltd.**, reported in 2013 (2) CTC 705, which reads as follows:

“14.In the case of Rajasthan State Electricity Board v.Universal Petrol Chemicals Ltd., 2009 (3) SCC 107;Shree Baidyanath Ayurved Bhawan (P) Ltd.v.Praveen Bhatia, 2009 (8) SCC 779 andA.V.M. Sales Corporationv.Anuradha Chemicals Pvt. Ltd., 2012 (1) CTC 867 (SC) : 2012 (2) SCC 315, the Hon'ble Supreme Court has held that if a cause of action has arisen in which two or more Courts had jurisdiction to try a Suit, in that scenario, it is open to the parties to choose Courts at one place, to the exclusion of all other places, as the Court having jurisdiction to try such Suits or matters incidental thereto. But where Courts only at one place have the jurisdiction to try the Suits and other proceedings, in that case, it is not open to the parties to confer jurisdiction to a particular Court in another Place. Applying the principles laid down by the Hon'ble Supreme Court in the aforesaid cases to the facts of the present case, I find that no cause of action had arisen to the Petitioner within the Ordinary Original jurisdiction of this Court and therefore, Clause 34 of the Lease Agreement would not enure to the benefit of the Petitioner.”

6. From the reading of the above citation, it is clear that both the parties are agreed for the venue, which is having no jurisdiction or no cause of action arose and the parties can have jurisdiction but they cannot have exclusive jurisdiction,



where no cause of action arose excluding the jurisdiction of Courts where the cause of action arose.

7. Upon hearing the submissions made by the learned counsel for the applicant and perusing the documents available on record, this Court is satisfied that prima facie case has been made out and the balance of convenience is in favour of the applicant.

8. If this Court failed to grant interim injunction, the interest of the applicant would be affected. Therefore, there shall be an order of interim injunction.

9. Issue notice to the respondents, returnable by 20.03.2023. Private notice is also permitted.

10. The learned Senior counsel would further submit that the Bank guarantee is going to expire on 31.03.2023 and the same will be kept alive thereafter.

11. Post this case on 20.03.2023.”

3. Subsequently, the present applications were filed by the applicant herein to vacate the interim injunction granted by this Court.

4. Mr.Abhinav Kardekar, learned counsel appearing for the applicant would submit that earlier, the respondent had filed the applications under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter called



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as “the A and C Act”) under the pretext that due to the holiday of Courts at Raipur, Chhattisgarh, they were unable to move an application for the extension of interim order and hence they approached this Court. Further, he would submit that this Court will have exclusive jurisdiction only when the parties have disputes with regard to the contract entered between them. However, at this point of time, this Court lacks jurisdiction. It was also submitted that the applicant is placed in Raipur and the contract between the applicant and the respondent was signed at Raipur and also the works allotted to the respondents were carried out in Raipur. Thus, the Courts of Raipur, Chhattisgarh will have sole jurisdiction to adjudicate the disputes between the parties. Further, he would submit that the parties themselves had admitted that the Courts in Raipur have exclusive jurisdiction to entertain and adjudicate the disputes arisen out of contract. When such being the case, since the bank guarantee, which was issued by the first respondent, was with regard to the aforesaid contract, any dispute arisen with the Bank Guarantee will also falls within the jurisdiction of the Courts of Raipur at Chhattisgarh.



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5. Further, the learned counsel for the applicant would submit that by the application of provision of the Chhattisgarh Madhyastham Adhikaran Adhiniyam, 1983 (hereinafter called as “CMAAC Act” or “State Act”), adjudicating disputes under Section 9 of the A and C Act is barred as the dispute is in relation of work contract between the State owned undertaking and private Company. In the present case, the applicant issued a work contract to the first respondent and the dispute arisen out of the work contract. Therefore, the A and C Act would not apply and the State Act would prevail over the Section 9 of the A and C Act.

6. By referring Section 3 of the State Act, the learned counsel for the applicant would submit that the State Tribunal is constituted to resolve the disputes or differences pertaining to "*works contract*". In the present case, the instant contract is related to works, which clearly falls within the definition of "*works contract*" given under Section 2(1)(i) of the State Act. Therefore, he prays this Court to vacate the interim injunction granted by this Court.



7. Further, the learned counsel for the applicant would submit that the State Act Bars the Tribunal providing any interim injunction in connection with the work. The object and reasons of the State Act is that this contract is relating to the "*works contract*" and it should not be disturbed, since if it is disturbed for any reason from carrying on the work, it would ultimately affect not only the economy, but also workers. Therefore, keeping that in mind, the State Act was enacted as to not to grant any interim injunction in carrying on work. Thus, the State Act would not provide any power to the Tribunal to grant interim injunction. When such being the case, granting interim injunction before the initiation of arbitration proceedings would ultimately defeat the object and reasons of the State Act. Therefore, the State Act will prevail over the A and C Act. With regard to the same he referred to the judgment of the Hon'ble Supreme Court in ***Madhya Pradesh Rural Development Authority vs. LG Chaudhary Engineers and Contractors*** reported in ***(2018) 10 SCC 826***.

8. Further, by referring Section 2(4) of the A and C Act, the learned counsel submitted that since there is no inconsistency in enactment of the



State Act and the provisions thereunder, the State Act will prevail over the A and C Act in terms of Section 2(4) of the A and C Act, which reads as follows:

"2. Definition.-

(1).....

(2).....

(3).....

(4) *This Part except sub-section (1) of Section 40, Sections 41 and 43 shall apply to every arbitration under any other enactment for the time being in force, as if the arbitration were pursuant to an arbitration agreement and as if that other enactment were an arbitration agreement, except insofar as the provisions of this part are inconsistent with that other enactment or with any rules made thereunder."*

9. On the other hand, Mr.AL.Somayaji, learned Senior counsel appearing for the respondents would submit that the first respondent-company has its registered office, which is situated within the jurisdiction of this Hon'ble Court and the Bank, which provides the Bank Guarantee, is also within the jurisdiction of this Court. Therefore, this Court have an inherent jurisdiction and the State Act would not prevail over the A and C Act. Further, he would submit that since there is no provision for getting interim order in the State Act, the only remedy available for the first respondent is to approach this Court and to invoke the provisions of A and



C Act to get the appropriate interim order. Further he would submit that the provisions of A and C Act will be applied to the extent that it would not conflict with the provision of the State Act and if no provision is available in the State Act to carry out certain obligation, the A and C Act would apply. Therefore, he would submit that the applications filed by the applicant to vacate the interim injunction is liable to be dismissed. In support of his contention, he had referred to some of the judgments of the High Court.

10. Heard Mr.Abhinav Kardekar, learned counsel for the applicant and Mr.AL.Sowmayaji, learned Senior counsel for the respondents and perused the materials available on record.

11. The main issue that had arisen for consideration in the present case is as to whether the State Act would prevail over the A and C Act or not. For the "*work contract*" carried out within the State of Chhattisgarh, the State Act would be applicable. There is no dispute on the aspect that the contract provided to the respondent-company by the applicant is work contract. Hence, the provisions of the State Act would apply for the present case.



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12. When such being the case, now the issue arisen for consideration is that whether this Court can grant relief under Section 9 of the A and C Act on the basis that there is no provisions available in the State Act for getting the interim injunction due to the express Bar for the Tribunal for granting interim injunction in terms of provision of Section 17A of the State Act, which reads as follows:

“17A. Inherent Powers.- Nothing in this Act shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such order as may be necessary for the ends of justice or to prevent abuse of the process of the Tribunal:

Provided that no interim order by way of injunction, stay or attachment before award shall be granted:

Provided further that the Tribunal shall have no power to review the award including the interim award.”

13. A reading of the above proviso to Section 17A of the State Act, makes it clear that the Tribunal cannot grant any interim injunction by way of injunction, stay or attachment before the award shall be granted. By virtue of the said provision, the learned Senior counsel appearing for the respondent would contend that since the power for the Tribunal for granting



interim injunction had been prevented, Section 9 of A and C Act can be invoked for granting the appropriate interim order, since the bank guarantee was issued from the Bank, which is situated at Chennai and the registered office of the respondent-company is also situated at Chennai.

14. This Court feels that as per the provisions of the State Act, the Tribunal is barred from granting interim injunction. The provisions of the State Act would apply only for the works contract. The idea of enacting the Section 17A of the State Act, to restrain the Tribunal to not to grant any interim injunction, is since the nature of work is pertaining to the works contract, if any injunction is granted for any default or any other reasons, the execution of works would be stalled and thereby the worker will become jobless and whatever the investment already made will become waste. Further, even if the work is stalled in the incomplete manner for the non-payment of money, i.e., at the stage of some plastering or fixing of iron rod, necessarily it has to be filled up with the concrete after fixing of iron rod. If the same is not happened in time, the iron will become rusted and it would be nothing but economical waste i.e., waste of money as well as work force,



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which has already been spent on the work contract. On the other hand, if the

works contract is continued, nobodies interest would be affected.

Ultimately, the affected party is entitled for damages in the form of award.

These are all the thoughts would have arisen to the Legislator to bring up

the provision of Section 17A of the State Act to restrain the Tribunal to pass

any interim order to restrain the parties from performing works contract, and

this Court also finds that there is a logic in bringing up the State Act and in

the event of non-payment, the compensation could be paid by way of

interest, damages, etc., i.e., in the monetary terms. Ultimately, the dispute

will be in the monetary aspect alone. If that being the idea of bringing the

Section 17A of State Act, the contention of the learned Senior counsel for

the respondents, that there is no provision is available for granting the

interim order and therefore, they want to invoke the Section 9 of the A and

C Act for interim injunction, will ultimately defeat the object and reasons of

the State Act.

15. The Hon'ble Supreme Court also upheld the provisions of the State Act in the Judgment of *M.P.Rural Road Development Authority vs.*



L.G.Chaudhary Engineers and Contractors reported in ***(2018) 10 SCC***

833 and the relevant portions of the said judgement is extracted hereunder:

“2. Appointment of an arbitrator in a dispute arising out of execution of a “works contract” was the subject-matter for consideration before the High Court [L.G. Chaudhary Engineers and Contractors v. M.P. Rural Road Development Authority, Arbitration Case No. 14 of 2010, order dated 8-9-2010 (MP)] under Section 11 of the Arbitration and Conciliation Act, 1996.

3.The appellants raised objection that the matter being covered by a special State Act, namely, M.P. Madhyastham Adhikaran Adhiniyam, 1983 (“the M.P. Act”, in short), the application under Section 11 of the Arbitration and Conciliation Act, 1996 could not be entertained. The High Court, however, overruled the said objection relying upon the judgment of this Court in VA Tech Escher Wyass Flovel Ltd. v. M.P. SEB [VA Tech Escher Wyass Flovel Ltd. v. M.P. SEB, (2011) 13 SCC 261 : (2012) 3 SCC (Civ) 468] .

4. When the matter was considered by a Bench of this Court on 24-1-2012 (order in M.P. Rural Road Development Authority v. L.G. Chaudhary Engineers and Contractors [M.P. Rural Road Development Authority v. L.G. Chaudhary Engineers and Contractors, (2012) 3 SCC 495 : (2012) 2 SCC (Civ) 210]), this Court held that the judgment in VA Tech Escher Wyass Flovel Ltd. [VA Tech Escher Wyass Flovel Ltd. v. M.P. SEB, (2011) 13 SCC 261 : (2012) 3 SCC (Civ) 468] was per incuriam insofar as it held that the M.P. Act stands impliedly repealed by the Central Act. While Hon'ble Ganguly, J., held that the State Act will cover a dispute even after termination of the “works contract”, Hon'ble Gyan Sudha Mishra, J. took a different view as follows : (M.P. Rural Road Development case [M.P. Rural Road Development



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Authority v. L.G. Chaudhary Engineers and Contractors, (2012) 3 SCC 495 : (2012) 2 SCC (Civ) 210] , SCC p. 511, para 51)

“51. It is no doubt true that if the matter were before an arbitrator appointed under the Arbitration and Conciliation Act, 1996 for adjudication of any dispute including the question regarding the justification and legality as to whether the cancellation of works contract was legal or illegal, then the said arbitrator in view of the ratio of the judgment of the Supreme Court in Maharshi Dayanand University v. Anand Coop. L/C Society Ltd.[Maharshi Dayanand University v.Anand Coop. L/C Society Ltd., (2007) 5 SCC 295] , as also in view of the persuasive reasoning assigned in the judgment and order in Heyman v.Darwins Ltd.[Heyman v.Darwins Ltd., 1942 AC 356 : (1942) 1 All ER 337 (HL)] would have had the jurisdiction to adjudicate the dispute regarding the justification and legality of cancellation of works contract also. But the same cannot be allowed to be raised under the M.P. Act of 1983 since the definition of “works contract” unambiguously lays down in explicit terms as to what is the nature and scope of “works contract” and further enumerates the specific nature of disputes arising out of the execution of works contract which would come within the definition of a “works contract”. However, the same does not even vaguely include the issue or dispute arising out of cancellation and termination of contract due to which this question, in my considered opinion, would not fall within the jurisdiction of the M.P. State Arbitration Tribunal so as to be referred for adjudication arising out of its termination.”

5.We find from the definition under Section 2(d) of the Arbitration and Conciliation Act, 1996 that even after a contract is terminated, the subject-matter of dispute is covered by the said



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definition. The said provision has not been even referred to in the judgment rendered by Hon'ble Gyan Sudha Mishra, J.

6. In view of the above, we are of the opinion that the view expressed by Hon'ble Ganguly, J. is the correct interpretation and not the contra view of Hon'ble Gyan Sudha Mishra, J. Reference stands answered accordingly.

7. Taking up appeal on merits, we find that the High Court proceeded on the basis of the judgment of this Court in VA Tech Escher Wyass Flovel Ltd. [VA Tech Escher Wyass Flovel Ltd. v. M.P. SEB, (2011) 13 SCC 261 : (2012) 3 SCC (Civ) 468] which has been held to be per incuriam. The M.P. Act cannot be held to be impliedly repealed.

8. We are, thus, in agreement with the proposed opinion of Hon'ble Ganguly, J. in para 42 of the reported judgment which reads as follows : (M.P. Rural Road Development case [M.P. Rural Road Development Authority v. L.G. Chaudhary Engineers and Contractors, (2012) 3 SCC 495 : (2012) 2 SCC (Civ) 210], SCC p. 509, para 42)

“42. Therefore, appeal is allowed and the judgment of the High Court which is based on the reasoning of VA Tech Escher Wyass Flovel Ltd. v. M.P. SEB [VA Tech Escher Wyass Flovel Ltd. v. M.P. SEB, Misc. Appeal No. 380 of 2003, order dated 5-3-2003 (MP)] is set aside. This Court holds the decision in VA Tech Escher Wyass Flovel Ltd. v. M.P. SEB [VA Tech Escher Wyass Flovel Ltd. v. M.P. SEB, (2011) 13 SCC 261 : (2012) 3 SCC (Civ) 468] has been rendered in per incuriam. In that view of the matter the arbitration proceeding may proceed under the M.P. Act of 1983 and not under the Arbitration and Conciliation Act, 1996.”

The appeal is accordingly disposed of.

CA No. 2615 of 2018 arising out of SLP (C) No. 16889 of 2012

9. Leave granted. Heard the learned counsel for the parties.



10. *Proceedings under the M.P. Madhyastham Adhikaran Adhiniyam, 1983 (the State Act) were pending before the M.P. Arbitration Tribunal at Bhopal. The respondent raised an objection that in view of VA Tech Escher Wyass Flovel Ltd.v.M.P. SEB[VA Tech Escher Wyass Flovel Ltd.v.M.P. SEB, (2011) 13 SCC 261 : (2012) 3 SCC (Civ) 468] , the Arbitration and Conciliation Act, 1996 will apply and the State Act will not apply. This objection was rejected. The respondent preferred a writ petition. The High Court has upheld [Gammon India Ltd.v.State of M.P., WP No. 8375 of 2010, order dated 29-11-2010 (MP)] the objection and quashed the proceedings under the State Act.*

11. *The learned counsel for the State has drawn our attention to Section 2(4) of the Central Act, which is as follows:*

“2. (4) This Part except sub-section (1) of Section 40, Sections 41 and 43 shall apply to every arbitration under any other enactment for the time being in force, as if the arbitration were pursuant to an arbitration agreement and as if that other enactment were an arbitration agreement, except insofar as the provisions of this Part are inconsistent with that other enactment or with any rules made thereunder.”

12. *It was pointed out that the above provision was in pari materia with Section 46 of the Arbitration Act, 1940 which was interpreted by this Court in Dhanrajamal Gobindramv.Shamji Kalidas & Co.[Dhanrajamal Gobindramv.Shamji Kalidas & Co., (1961) 3 SCR 1020 : AIR 1961 SC 1285] This Court held : (AIR p. 1293, para 24)*

“24. ...Section 46 makes the provisions of any other enactment or any rules made thereunder to prevail over the Arbitration Act, if inconsistent with the latter. In view of these several provisions, it is clear that the Arbitration Act applies to all arbitrations and Chapter II makes it applicable also to arbitrations, in which the arbitration agreement is



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asked to be filed in Court under Section 20 subject, however, to this that the provisions of any other enactment or rules made thereunder, if inconsistent with the Arbitration Act, are to prevail.”

13.The same view was taken in Punjab SEBv.Guru Nanak Cold Storage & Ice Factory[Punjab SEBv.Guru Nanak Cold Storage & Ice Factory, (1996) 5 SCC 411] in para 12, which is as follows : (SCC pp. 416-17)

“12. Sections 6(1), 7, 12, 36 and 37 have expressly excluded from the operation of statutory arbitration. The rest of the provisions per force would get attracted. But the provisions of the appropriate statute or rules should necessarily be consistent with the provisions of the Arbitration Act. In that event, despite absence of an arbitration agreement, rest of the provisions of the Arbitration Act would apply (as if there was an arbitration agreement between the parties) and the dispute becomes arbitrable under the Arbitration Act, as if there was an arbitration agreement between the parties. If there is any inconsistency, then the provisions of the Arbitration Act do not get attracted. Section 33 expressly gives power to the civil court to decide the existence or validity of the arbitration agreement or the award as such. If this question was to arise, necessarily the civil court would be devoid of jurisdiction to decide the dispute on merits but only in the forum of arbitration. The existence and validity of the arbitration agreement should be decided by the civil court. The arbitrator cannot clothe himself with jurisdiction to conclusively decide it by himself



as a jurisdictional issue. It is for the court to decide it. The dispute on merits should be resolved by the arbitrator and the legality of the award would be subject to decision by the court under Section 33.”

14.In view of the above, we are of the view that the State law will prevail in terms of Section 2(4) of the Central Act. The reference under the State law was valid and could be decided in accordance with the State. Accordingly, we set aside the impugned order [Gammon India Ltd.v.State of M.P., WP No. 8375 of 2010, order dated 29-11-2010 (MP)] and restore the proceedings before the Tribunal. The appeal is, accordingly, allowed in above terms.

CA No. 2751 of 2018 arising out of SLP (C) No. 11615 of 2012, CA No. 2753 of 2018 arising out of SLP (C) No. 11617 of 2012, CA No. 2754 of 2018 arising out of SLP (C) No. 11618 of 2012, CA No. 2755 of 2018 arising out of SLP (C) No. 11619 of 2012, CAs Nos. 2756-57 of 2018 arising out of SLPs (C) Nos. 11633-34 of 2012, CAs Nos. 2758-59 of 2018 arising out of SLPs (C) Nos. 11631-32 of 2012 & CAs Nos. 2760-61 of 2018 arising out of SLPs (C) Nos. 11628-29 of 2012

15.Leave granted. In view of order [Set out in paras 9 to 14, above.] passed in Civil Appeal No. 2615 of 2018 [arising out of SLP (C) No. 16889 of 2012], the impugned order [Biyani Projects (P) Ltd.v.Executive Engineer, Arbitration Cases Nos. 24-25 and 27 of 2007, order dated 18-5-2010 (MP)],[Sanjeev Mishra v.State of M.P., Arbitration Cases Nos. 4-6 of 2011, order dated 29-7-2011 (MP)],[State of M.P.v.Sanjeev Mishra, Review Petitions Nos. 248-250 of 2011, order dated 14-10-2011 (MP)] is set aside and the application(s) filed by the respondent(s) under Section 11 of the Arbitration and Conciliation Act, 1996 are dismissed.



16. However, since it is stated that proceedings are pending before the arbitrator in pursuance of the impugned order, the same will stand transferred to the State Tribunal and the State Tribunal may proceed further taking into account the proceedings which have already been taken. The learned counsel for the respondent(s) pointed out that in view of Section 16(2), the objection to the jurisdiction could not be raised after statement of defence was filed. This contention cannot be accepted in view of the fact that the SLP was filed prior to the filing of statement of defence wherein this objection was raised.

17. We do not express any opinion on the applicability of the State Act where award has already been made. In such cases if no objection to the jurisdiction of the arbitration was taken at relevant stage, the award may not be annulled only on that ground.

18. The appeals are, accordingly, disposed of.

CA No. 2616 arising out of SLP (C) No. 35641 of 2011

19. Leave granted. In view of the order [Set out in paras 15 to 18, above.] passed in CA No. 2751 of 2018 arising out of SLP (C) No. 16615 of 2012, no objection having been raised by the respondents in terms of Section 16(2) of the Arbitration and Conciliation Act, 1996 at appropriate stage within the time stipulated, the award could not have been annulled.

20. Accordingly, this appeal is allowed, the impugned judgment [Sarvesh Raiv.M.P. Rural Road Development Authority, Misc. Appeal No. 2673 of 2006, order dated 17-8-2011 (MP)] is set aside and the award is restored. It is, however, made clear that this order will not debar proceedings under Section 34 of the Arbitration and Conciliation Act, 1996.

CA No. 2762 of 2018 arising out of SLP (C) No. 796 of 2014



21. Leave granted. In view of the order [Set out in paras 19 to 20, above.] passed in CA No. 2616 of 2018 arising out of SLP (C) No. 35641 of 2011, the impugned order [Ram Kumar Singhv.State of M.P., Review Petition No. 35 of 2011, order dated 16-3-2011 (MP)] is set aside and the matter is remanded to the High Court for fresh decision under the Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983, in accordance with law.

22. The appeal is disposed of in above terms. Pending applications, if any, also stand disposed of.

SLPs (C) Nos. 5076, 7407, 7416, 19637, 20744, 21017, 21037, 23107 & 30773 of 2017

23. Heard the learned counsel for the parties. We do not find any ground to interfere with the impugned order [Brij Mohan Agrawalv.Chhattisgarh Rural Road Development Agency, ARBAs Nos. 19 and 30 of 2015, decided on 22-3-2016 (Chh)], [Lal Babu Singhv.State of Chhattisgarh, ARBs Nos. 7-9 of 2015, decided on 22-3-2016 (Chh)], [Lal Babu Singhv.Chhattisgarh Rural Development Agency, ARBAs Nos. 15 and 21 of 2015, decided on 22-3-2016 (Chh)], [Jamal Constructionsv.Chhattisgarh Panchayat and Rural Development Department, ARBA No. 11 of 2015, decided on 4-5-2016 (Chh)], [A.P. Nirman Ltd.v.State of Chhattisgarh, ARBA No. 1 of 2015, decided on 22-3-2016 (Chh)] . The special leave petitions are, accordingly, dismissed. Pending applications, if any, also stand disposed of.

CA No. 11383 of 2017

24. Heard the learned counsel for the parties. We do not find any ground to interfere with the impugned order [R.S. Bajwa and Co.v.State of Chhattisgarh, Civil Revision No. 7 of 2013, order dated 12-5-2017 (Chh)] . However, this order will not affect the



remedy of the appellants under the Arbitration and Conciliation Act, 1996. The appeal is disposed of in the above terms.

SLPs (C) Nos. 15059 of 2011, 12478 of 2016, 17070, 18212, 21434, 25319, 25321 of 2017, 1631-33, 1635-37 of 2018 and Diaries Nos. 23682, 23685 of 2017

25. List these matters along with CAs Nos. 8984-85 of 2017 & SLP (C) No. 24172 of 2017 on Tuesday i.e. 13-3-2018.

26. Except the matters which are referred to a three-Judge Bench, all other matters are not necessary to be heard by a three-Judge Bench and the same are detagged and be heard separately.

IA No. 3 in CA No. 974 of 2012

27. On oral prayer let the application for intervention be treated as special leave petition and listed separately. Let a formal special leave petition be filed by the applicant. The respondent(s) will be at liberty to file a counter-affidavit. Needful be done by the applicant within one week. Post the matter after two weeks thereafter."

16. A reading of the above judgment makes it clear that the Hon'ble Supreme Court uphold the provisions of the State Act and order transfer of the pending proceedings of the arbitration, initiated under the A and C Act to the Tribunal. There are very many judgments raised by the applicant and all are relating to same subject matter and it would cover by the judgment of the Full Bench of the Hon'ble Supreme Court. In view of the above



findings, the citations referred by the respondent-company would not be applicable in the present case.

17. Further, a reading of Section 2(4) of the A and C Act, which is extracted supra in this order, makes it clear that if there is any inconsistency with the other enactments or with any rules made thereunder, the A and C Act would apply. However, in the present case, there is no such inconsistency in the enactment of the State Act. Therefore, the A and C Act would not apply and the State Act would prevail over the A and C Act. This aspect was also upheld by the Hon'ble Supreme Court in the above judgment.

18. In the result, this Court is of the considered view that the State Act would prevail over in terms of Section 2(4) of the the A and C Act and is inclined to vacate the interim injunction granted by this Court.



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19. Accordingly, these applications are allowed and the interim order granted by this Court on 08.03.2023 in O.A.Nos.181 and 182 of 2023 stands vacated.

20. In view of the above order passed by this Court in the applications in Arb.Appln.Nos.129 and 130 of 2023 and upon considering the provisions of Section 2(4) of the A and C Act, the applications in O.A.Nos.181 and 182 of 2023 are dismissed as not maintainable.

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