

December 13, 2024
AD 11
Ct. 17
SG

WPA 29133 of 2024

Basdeb Rabidas
vs.
State Bank of India and others

Mr. Bhaskar Prasad Banerjee
Mr. Parashar Baidya
... for the petitioner

Mr. Asis Bhattacharya
... for the respondent No.4

Learned counsel for the petitioner submits as follows. The petitioner is a majdoor of the Kolkata Metropolitan Corporation. His address as mentioned in the agreement in question by the arbitrator and the claimant is a place where he used to reside about 20 years ago. The petitioner does not even know how that address could be a part of the proceedings. The claimant alleged that the petitioner had taken a loan of Rs.4 lakhs in 2018. No notice whatsoever was served either by the claimant or from the end of the arbitrator intimating the petitioner about the Arbitration Act or otherwise. Subsequently, it appeared that an order has been passed freezing the bank account of the petitioner till realisation of Rs.4 lakhs. Despite request, no copy of relevant records has been provided to the petitioner. This has prevented the petitioner from preferring an appeal. The account which has been frozen is the salary account of the petitioner. Reliance is placed on a decision passed

by a Coordinate Bench of this Court in *Cholamandalam Investment and Finance Company Ltd. vs. Amrapali Enterprises and another*, reported at 2023 SCC OnLine Cal 605.

Learned counsel for the claimant denies the allegations and submits as follow. The address in question was given by the petitioner himself. This address is evident from the agreement in question as well as latest pay slip of the petitioner. Available records would show that notices were duly given about the proceedings. However, they are not available at present.

The learned Arbitrator, appearing in person, produces the records and submits that all required steps have been taken under the law in proceeding against the petitioner. However, the receipts of the notices sent to the petitioner are not presently available in the records.

This appears to be a case of violation of principles of natural justice. Therefore, the Court should come forward and intervene.

It appears from the decision in *Cholamandalam* (supra) that this Court had deprecated the practice of unilaterally appointing arbitrators. Impartiality, as discussed in the judgment, was an indeed paramount principle of arbitral proceedings.

Let the respondent/claimant provide copies of statement of claim petition under Section 17 of the said Act, proof of service of relevant documents and other

relevant documents relied upon to the petitioner at the earliest, positively by 16.12.2024.

In absence of receipts for notices allegedly given in respect of such proceedings to the petitioner, the order to freeze the bank account of the petitioner cannot be allowed to remain even for a minute.

In view of the above and in the interest of justice, the petitioner is granted liberty to approach the appellate forum within a period of four weeks from this date. The impugned order passed by the learned arbitrator shall remain stayed till then. In other words, the petitioner shall be permitted to operate his salary bank account for four weeks from this date or until any appropriate order is passed in this regard by the learned appellate authority.

With these observations and directions, the writ petition is disposed of.

It is clarified that the merits of the case have not been gone into.

All points taken by either of the parties are kept open.

Parties shall act on a server copy duly downloaded from the official website of this Court.

The learned Advocate on Record of the petitioner shall be at liberty to communicate a gist of this order before appropriate authorities.

(Jay Sengupta, J.)