

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2048 OF 2024

Sunil Subhanrao Jagtap and Others ... Petitioners

versus

The Union of India and Others ... Respondents

.....

Mr.Vinod P. Patil with Mr.Ratan L. Adhe for the Petitioners.

Mr.M.M.Pabale, AGP for the Respondent -State.

.....

CORAM : NITIN JAMDAR, AND
M.M. SATHAYE, JJ.

DATE : 23 February 2024.

P.C. :

By filing this writ petition under Article 226 of the Constitution of India, what the Petitioners essentially seeking is an execution of the Award rendered by the Arbitrator under the National Highways Act, 1956.

2. In the case of *National Highways Authority of India Versus Sheetal Jaidev Vade & Ors.*¹, the Hon'ble Supreme Court has observed thus :

“6.2 Apart from the fact that the award dated 12.06.2018 has been challenged by the NHAI by initiating proceedings under Section 34 of the Arbitration Act which are reported to be pending, the High Court ought not to have

¹ Civil Appeal No. 5256 of 2022 dated 24 August 2022

entertained the writ petition under Article 226 of the Constitution of India seeking the reliefs to execute the award passed by the learned Arbitral Tribunal/ Court, when the award passed by the learned Arbitral Tribunal/ Court is to be executed by initiating an execution proceeding before the concerned Executing Court. But, by passing the impugned order/ directions the High Court has virtually converted itself into Executing Court. Therefore, once the original writ petitioner was having an efficacious alternative remedy to execute the award passed by the learned Arbitral Tribunal/ Court, by initiating an appropriate execution proceeding before the competent Executing Court, the High Court ought to have relegated the original writ petitioners to avail the said remedy instead of entertaining the writ petition under Article 226 of the Constitution of India which was filed to execute the award passed by the Arbitral Tribunal/ Court. If the High Courts convert itself to the Executing Court and entertain the writ petitions under Article 226 of the Constitution of India to execute the award passed by the Arbitral Tribunal/ Court, the High Courts would be flooded with the writ petitions to execute awards passed by the learned Arbitrator/ Arbitral Tribunal/ Arbitral Court.

7. We disapprove the entertaining of such writ petitions under Article 226 of the Constitution of India to execute the award passed by the learned Arbitral Tribunal/ Court, without relegating the judgment creditor in whose favour the award is passed to file an execution proceeding before the competent Executing Court”.

3. In light of clear dicta of the Hon'ble Supreme Court as above, we decline to entertain this writ petition.

4. Leaving it open to the Petitioners to initiate appropriate execution proceeding before the competent Executing Court, we dispose of the writ petition.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)