



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 13TH DAY OF AUGUST, 2024

PRESENT

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL

MISCELLANEOUS FIRST APPEAL NO.101322 OF 2024 (AA)

BETWEEN:

BHASKAR INDUSTRIAL DEVELOPMENT
LIMITED, A COMPANY INCORPORATED UNDER
THE PROVISIONS OF COMPANIES ACT, 1956,
HAVING ITS REGISTEED OFFICE AT
1/1, CAMAC STREET, 3RD FLOOR,
KOLKATA-700016
REPRESENTED BY ITS
GENERAL MANAGER (MARKETING)
RAILWAY DIVISION MR GAUTAM CHATERJEE,

...APPELLANT

(BY SRI. R.V.NAIK, ADVOCATE FOR SRI. SHIVASAI M.PATIL,
ADVOCATE)

AND:

1. SOUTH WESTERN RAILWAY
THROUGH THE PRINCIPAL CHIEF ENGINEER,
HAVING OFFICE AT CLUB ROAD,
KESHWAPUR, HUBBALLI-580023,
KARNATAKA.
2. SRI. A. K. GUPTA, ARBITRATOR,
Y-116, AGASHEN AWAS,
66, IP EXT, DELHI-110092

...RESPONDENTS

(BY SRI. VENKATESH M.KHARVI, DY. SOLICITOR GENERAL)

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VINAYAKA B V
Location: High Court of
Karnataka
Date: 2024.08.17 12:21:38
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THIS MFA IS FILED UNDER SECTION 37(1)(b) OF THE ARBITRATION AND CONCILIATION ACT, 1996, AGAINST THE JUDGMENT DATED 16.01.2024, PASSED IN ARBITRATION NO.01/2015, ON THE FILE OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, DHARWAD, ALLOWING THE APPLICATION FILED UNDER SECTION 34 OF THE ARBITRATION AND CONCILIATION ACT, 1996.

THIS MFA COMING ON FOR FINAL HEARING, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT)

This Miscellaneous First Appeal filed under Section 37(1)(b) of the Arbitration and Conciliation Act, 1996, seeks to call in question the judgment & order dated 16.01.2024 entered by the learned Principal District & Sessions Judge, Dharwad, whereby the Arbitration Suit No.1/2015 having been favoured, the award passed by the second defendant-Arbitrator, dated 06.01.2014 is set aside.

2. Learned counsel appearing for the for the appellant passionately submits that the award in question could not have been, in a wholesale way, set at naught



inasmuch as what was remanded by the Co-ordinate Bench, vide its order dated 05.04.2023 in complainant's MFA No.101544/2021, to the learned Principal District Judge was only for the limited purpose of soliciting reasons at the hands of Arbitrator. Learned Judge of the Court below has by inadvertance ignored the observations at paragraphs 5 & 8 and also in the operative portion of the order at paragraph 9. That being the grave infirmity the indulgence of this Court is warranted. Learned Deputy Solicitor General appearing for the answering respondents makes submission in justification of the impugned order.

3. Having heard the learned counsel for the parties and having perused the appeal papers, we are broadly in agreement with the submission made on behalf of the appellant to the effect that the award in question could not have been set at naught in a wholesale way when the direction to the Arbitrator was to furnish the reasons in support of the claim in question made under Section 34(4) of the Act. This view gains support from the



decision of the Apex Court in the case of **DYNA TECHNOLOGIES PRIVATE LIMITED vs. CROMPTON GREAVES LIMITED¹**, more particularly, paragraphs 36 & 37.

In the above circumstances, this appeal succeeds; the impugned judgment & order of the learned Principal District Judge are set aside; matter having already been remitted to the Arbitrator in terms of the Co-ordinate Bench judgment dated 05.04.2023, the said Arbitrator shall furnish the reasons as directed vide paragraphs 5, 8 & 9 thereof.

In view of this order, the Arbitration Suit No.1/2015 is revived and kept pending till the Arbitrator furnishes reasons to the District Court, and to both parties. The same shall be disposed off after reasons are furnished.

The learned Arbitrator is also requested to consider the application filed by respondents under Section

¹ (2019)20 SCC 1



33(c)(a) of the Act as observed by the Co-ordinate Bench
in its judgment dated 05.04.2023.

Costs made easy.

**Sd/-
(KRISHNA S.DIXIT)
JUDGE**

**Sd/-
(VIJAYKUMAR A.PATIL)
JUDGE**

KMS
List No.: 1 Sl No.: 40