



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

ARBITRATION APPEAL NO. 1 OF 2010
WITH
CIVIL APPLICATION NO. 7449 OF 2009
IN ARBA/1/2010

The State Of Maharashtra And Ors

VERSUS

Baliram Madhav Chaudhary

...

AGP for Appellants : Mr. Rajdeep D. Raut
Advocate for Respondent : Mr. S B Yawalkar

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CORAM : ROHIT W. JOSHI, J.
DATE : 22nd AUGUST, 2025

P.C.:

1. The appeal is heard finally with consent of parties.
2. The respondent in the present appeal has executed certain work for the appellants. The dispute arose between the parties in relation to said work. The respondent therefore invoked arbitration clause under the contract. The learned Arbitrator directed the appellants to pay a sum of Rs.2,40,000/- as damages towards breach of contract to the respondent along with interest @ 8% p.a. from the date of application i.e. 16.10.2001 till the date of realization. As on the date of application i.e. 16.10.2001, the Arbitration and Conciliation Act, 1996 had commenced and the Arbitration Act, 1940 was already repealed. However after the award was passed, the respondent made an application before the Civil Court as contemplated under Section 17 of the Arbitration Act, 1940 for making award of the Arbitrator rule of

Court. The learned IInd Joint Civil Judge, Senior Division, Jalgaon has allowed the application vide judgment and order dated 09.09.2008 and has directed the appellants to make payment of amount in terms of arbitral award. Perusal of para 7 of the judgment will demonstrate that according to learned AGP appearing for appellants, an objection as contemplated under Section 34 of the Arbitration and Conciliation Act, 1996 was filed by the appellants challenging the arbitral award. However, it is observed in para 8 that copy of application under Section 34 was not filed and that appellants had failed to substantiate that no such objection was filed. In the present appeal also, the appellants are not in a position to demonstrate that petition under Section 34 of the Arbitration and Conciliation Act, 1996 was filed in order to challenge the said award. In the absence of any application, the award has attained finality.

3. The present appeal is filed challenging the judgment and order dated 09.09.2008 passed by the Civil Court in application for making award as rule of Court. The application filed by the respondent was clearly misconceived. However, the fact remains that the appellants have failed to challenge the arbitral award and as such, the arbitral award has attained finality. The present appeal is filed challenging the judgment and order dated 09.09.2008 passed by the learned Civil Court. The appeal was filed as first appeal under Section 96 of the Civil

Procedure Code and subsequently, it was converted into arbitration appeal. Under the scheme of Arbitration and Conciliation Act, 1996, the arbitral award is itself executable as a decree. Remedy against the arbitral award is to file petition under Section 34 of the Act. The judgment delivered under Section 34 is amenable to appeal under Section 37. In the case at hand, since objection under Section 34 is not preferred, the question of filing appeal under Section 37 does not arise and question of challenging the judgment and order dated 09.09.2008 passed by the learned Civil Court in proceeding initiated under Section 17 of the Arbitration Act, 1940 for making arbitral award rule of the Court also does not arise.

4. In view of the above, the appeal is dismissed with no order as to costs.

5. Civil Application stands disposed of.

[ROHIT W. JOSHI J.]