



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF AUGUST, 2025

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C M JOSHI

WRIT APPEAL NO. 1262 OF 2025 (GM-RES)

BETWEEN:

1. SOUTH WESTERN RAILWAY
OFFICE BY THE DY. CHIEF ENGINEER
/ COSNTURCTION
AT No.18, MILLERS ROAD
BENGALURU - 560 046
REPRESENTED BY ITS
DEPUTY CHIEF ENGINEER CONSTURCTION /I
SHRI NIKHIL VIRIDHI

...APPELLANT

(BY SRI SUSHAIL TIWARI N., ADVOCATE)

AND:

1. SRI ANANDAMURTHY
AGED ABOUT 62 YEARS
SON OF LATE CHIKKABEERANNA
R/AT No. 217, 8TH CROSS
X MAIN, I BLOCK
HMT LAYOUT, NAGASANDRA POST
BENGALURU - 560 073.

...RESPONDENT

(BY SRI GIRIDHAR H., ADVOCATE)



THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE ORDER DATED 02.05.2025 PASSED IN WRIT PETITION No. 23866/2023 PASSED BY THE LEARNED SINGLE JUDGE AND CONSEQUENTLY DISMISS WRIT PETITION No. 23866/2023 AND ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU,CHIEF JUSTICE)

1. For the reasons stated in the application - I.A.1/2025, the same is allowed. The delay in filing the appeal is condoned.
2. The appellant has filed the present appeal impugning the order dated 02.05.2025 [**impugned order**] passed by the learned Single Judge of this Court in W.P.No.23866/2023 (GM-RES) captioned Shri. Anandamurthy v. South Western Railway.
3. The respondent had filed the said petition *inter alia* impugning the final termination notice dated 10.08.2023, whereby



the appellant had terminated the contract with the respondent. Further, the appellant had also declined to refund the earnest money deposit and security deposit, aggregating an amount of ₹Rs.1,01,80,070/-. It is the appellant's case that the disputes raised by the respondent are arbitrable, as there was an arbitration agreement embodied in their agreement dated 24.09.2019. The appellant also pointed out that the respondent had issued a legal notice dated 05.09.2023 under Section 21 of the Arbitration and Conciliation Act, 1996 commencing the arbitral proceedings. Therefore, the petition was not maintainable.

4. Considering the controversy involved in the writ petition, the learned Single Judge had framed the following question for its consideration:

"When the parties are binding themselves for arbitration, can the jurisdiction under Article 226 of the Constitution be invoked?"

5. The learned Single Judge proceeded to hold that the contract agreement was a self contained code and provided for the resolution of disputes through arbitration. The learned Single Judge also referred to the notice invoking arbitration and observed that the said legal notice unequivocally reflected that '*the dispute is*



considered arbitrable by the petitioner'. The learned Single Judge proceeded to hold as under:

"11.1 A conjoint reading of Clauses 4.13, 8.1, 8.2, and 8.4 of the contract agreement, along with the legal notice dated 05.09.2023 issued by the petitioner, makes it evident that the parties have mutually agreed to resolve the dispute through the process of arbitration. In that view of the matter, this Court is of the opinion that the present writ petition is not maintainable for adjudicating the correctness or otherwise of the termination notice."

6. Notwithstanding that the learned Single Judge found that the writ petition was not maintainable and the disputes involved were arbitrable, the Court had proceeded to pass the following order :

"(i) Writ petition is allowed in part.

(ii) The prayer to quash the final termination notice dated 10.08.2023, Annexure-E is refused.

(iii) The respondent shall, if it so desires, appoint an arbitrator in accordance with the terms of the contract agreement within a period of four weeks from the date of this order.

(iv) The respondent is directed to refund and release the sum of Rs.50,00,000/- held in the suspense account as per the final termination notice dated 10.08.2023, subject to outcome of arbitration proceedings. The refund shall be made within a period of four weeks from the date of this order.

(v) In the event the respondent fails to appoint an arbitrator within the time granted, the petitioner shall be entitled to a refund of the entire amount held in the suspense account.



The respondent shall make the refund within four weeks from the expiry of the four-week period granted for the appointment of the arbitrator, subject to the directions and decision set out above.

(vi) No order as to costs."

7. We find that the impugned order is fundamentally flawed. Having concluded that the writ petition was not maintainable, the learned Single Judge could not have proceeded to allow the same in part.

8. In view of the above, we are unable to sustain the impugned order. The same is set aside. We clarify that we have not expressed any opinion on the merits of the claims of the respondent. Nothing stated in this judgment should be read as precluding the parties from advancing such contentions, as may be advised, in the arbitral proceedings, if pursued.

9. The pending applications are also disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C M JOSHI)
JUDGE**

SD
List No.: 1 Sl No.: 54