

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/65/2024
WITH AP/1097/2013

STEEL AUTHORITY OF INDIA LIMITED –IISCO STEEL PLANT
VS
BALAJI INDUSTRIAL PRODUCTS LIMITED

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

AND

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

Date :February 2, 2026.

Appearance:

Mr. Dhruva Ghosh, Sr. Adv.

Mr. Arijit Basu, Adv.

Ms. Ajeyaa Choudhury, Adv.

...for the appellant.

Mr. Jishnu Saha, Sr. Adv.

Mr. Tanay Agarwal, Adv.

Ms. Darshana Sett, Adv.

...for the respondents.

The Court: The appeal under Section 37 of the Arbitration and Conciliation Act, 1996 is directed against a judgment and order dated August 8, 2023 passed in a petition under Section 34 of the Act of 1996.

A tender notice was issued by the appellant inviting offers for sale of 60,000 metric tonnes of Run of Mines (Iron Ore) from the mining face of Ranichua Bench of Gua Ore Mines. The respondent was the highest bidder and was awarded the contract.

Disputes and differences arose between the parties in terms of such contract.

The disputes and differences referred to arbitration, are commercial disputes within the meaning of Section 2 (1) (c) of the Commercial Courts Act, 2015.

The arbitral tribunal passed an award on June 19, 2013. It was assailed under Section 34 of the Act of 1996. The petition under Section 34 of the Act of 1996 was pending till such time it was disposed of by the impugned judgment and order.

During the pendency of the petition under Section 34 of the Act of 1996, the Commercial Courts Act, 2015 came into force.

Under Section 15 of the Act of 2015, the challenge petition under Section 34 of the Act of 1996 was required to be transferred to the Commercial Division. Court failed to do so. None of the parties also applied for transmission of AP/1097/2013 from the Non-commercial Division to the Commercial Division of the High Court.

Learned Judge passed the impugned judgment and order dated August 8, 2023 by not treating the petition under Section 34 of the Act of 1996 as a matter under the Commercial Division. In fact, the impugned judgment and order was passed in the Non-commercial Division.

Act of the Court should not prejudice any of the parties. In the facts and circumstances of the present case, it was also the failure of the Court not transmitting AP/1097/2013 from the Non-commercial Division to Commercial Division.

Since, the impugned judgment and order was passed in the Non-commercial Division and since, the petition under Section 34 of the Act of 1996 was required to be transmitted to the Commercial Division under Section 15 of the Act of 2015 and since, it was not done so, we are of the view that, the impugned judgment and order, should be set aside on the ground of lack of jurisdiction of the learned Single Judge in hearing and deciding the challenge petition in the non-commercial division.

In such circumstances, we set aside the impugned judgment and order dated August 8, 2023. We direct that, AP/1097/2013 to be transmitted to the Commercial Division by the Department forthwith. Upon such transmission, Department will treat AP/1097/2013 to be disposed of in the Non-commercial Division. On transmission to the learned Commercial Division, the Department will renumber the AP/1097/2013 as a commercial matter. Learned Judge is requested to hear and dispose of AP/1097/2013 on transmission to the Commercial Division, as expeditiously as possible.

In the appeal, there subsists an order requiring the appellant to furnish a bank guarantee for a sum of Rs.5 crores and to increase the quantum of the bank guarantee by 7 % every year till the decision in the appeal.

In such circumstances, we direct that, the order passed by the Appeal Court, requiring the appellant to furnish bank guarantee and to keep the same renewed with an increase of 7% per annum to continue till the disposal of the petition under Section 34 of the Act of 1996. The bank guarantee and its accruals will abide by the result of the petition under Section 34 of the Act of 1996.

We clarify that we did not enter into the merits of the case. All points raised by the parties are kept open.

APO/65/2024 is disposed of accordingly without any order as to costs,.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)