



C.M.A.No.1801 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2026

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS. JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.1801 of 2021 and
C.M.P.No.9779 of 2021

Union of India, rep. by
The Chief Engineer (AF),
No.2 DC Area, MES Road,
Yeshwanthpur, Bangalore – 560022,
is represented by
Mr.Anurag Kumar Gupta (AK Gupta),
Garrison Engineer (AF) Sulur, Coimbatore,
by Authority Letter dated 26.04.2021
of Mr.Sanjeev Gupta, IDSE, Chief Engineer (AF),
Bangaluru.

... Appellant

Vs.

1. M/s.C.Ramaiah (died)
No.2, Thiruvengadam Nagar,
Tanjore – 613005.

2. Mrs.R.Malarvalli
3. Miss.R.Kavibharathi
4. Mr.R.Venkatesh
(RR2 to 4 brought on record as LRs of the deceased
sole respondent vide order of this Court dated 16.08.2021
made in C.M.P.No.11845 & 11853 of 2021)

... Respondents



C.M.A.No.1000 of 2021

Prayer: This Civil Miscellaneous Appeal has been filed under Section 37 of the Arbitration and Conciliation Act, 1996, to set aside the fair and decreetal order dated 19.02.2021 made in A.O.P.No.206 of 2018 passed by the learned Principal District Judge, Coimbatore and consequently set aside the Award dated 14.03.2018, passed by the sole Arbitrator Mr.P.Periasami.

For Appellant : Mr.G.Ilangovan,
Central Government Senior Standing Counsel

For Respondents : Mr.T.Mohan Senior Advocate for
Mr.G.Muthukumar

JUDGMENT

(Judgment of the Court was made by P.VELMURUGAN, J.)

This Civil Miscellaneous Appeal has been filed against the order passed by the learned Principal District Judge, Coimbatore, in Arbitration Original Petition No.206 of 2018, dated 19.02.2021.

2 The appellant invited tender for construction of Hangar with connected services at Suler, Coimbatore, Tamilnadu and the respondent/claimant was the successful bidder. Hence the appellant and the respondent have entered into an agreement No.CE(AF)/BAN/31 of 2008-2009 for a contract value of Rs.9,66,42,000/-



WEB COPY

with a contract period of 12 months. There was dispute arose between the appellant and the respondent and hence the respondent/claimant initiated arbitration proceedings. The sole Arbitrator passed the award dated 14.03.2018 in favour of the respondent/claimant and rejected the counter claims made by the appellant. Against which, the appellant filed a petition under Section 34 of the Arbitration and Conciliation Act, 1996 (in short “the Act”) before the learned Principal District Judge, Coimbatore, in Arb.O.P.No.206 of 2018.

3 The learned Principal District Judge, Coimbatore, after hearing both the counsel, vide order dated 19.02.2021, dismissed the petition and confirmed the award dated 14.03.2018 passed by the sole Arbitrator, against which, the appellant is before this Court with the present Civil Miscellaneous Appeal.

4 Mr.G.Ilangovan, learned Central Government Senior Standing Counsel for the appellant would contend that Clause 11(c) prohibits the contractor/claimant to raise claim in respect of compensation or otherwise, howsoever arising as a result of extensions granted under Conditions (A) (B). Therefore the sole arbitrator has no power or jurisdiction to award compensation in view of the condition No.11(c) of the contract.



WEB COPY

4.1 The delay has occurred only due to the non co-operation of the respondent/claimant and the sub-contractor namely M/s.Vardhman Precision Profiles & Tubes Private Limited, who did not fulfill their part of obligation. The respondent/claimant only chosen the sub-contractor and the appellant has approved the same. The respondent entered into supplementary contract with M/s.Vardhman Precision Profiles & Tubes Private Limited (in short 'Vardhman'), in which the appellant is no way connected and for the delay caused by the supplier viz. Vardhman, the appellant could not be held responsible.

4.2 Further the respondent has not given the advance amount to the Vardhman, which is the main cause for prolongation of contract period and due to non honour of official payments, as per the terms of independent agreement executed by them, the delay has occurred, for which the appellant is not responsible. Hence the amount of Rs.5,60,33,775/- awarded towards the alleged loss of profit due to prolongation of the contract is biased, when the total value of the claim itself is Rs.9.66 Crores and hence the Award is liable to be set aside.



WEB COPY

4.3 The learned Arbitrator, quoting the supplementary agreement disallowed the minor claims, but relying on the same agreement, allowed the major claims, which is not sustainable under law.

4.4 The compensation notice as per condition No.50 of IAFW.2249 forming part of the original contract agreement was served on the respondent/claimant, wherein it was clearly stated that the Government shall claim compensation under condition No.50 of IAFW.2249 forming part of the contract, in the event of the claimant accepting the performance of the works on extension of time originally stipulated under the contract.

4.5 The learned counsel in conclusion submitted that having delayed the project even after the extended period of contract and undertaken not to claim any compensation and received all the monies payable to him under the contract upto the final bills, the respondent/claimant initiated the arbitration proceedings, which is irreverent to the promise and undertakings made by him.

4.6 The award passed by the Arbitrator as confirmed by the learned Principal District Judge is much against the interest of public money in view of the fact



that the Government is not liable to pay compensation when there was no fault on the part of it. Hence the Award passed by the Arbitrator was vitiated by patent illegality and bad in law, which is liable to be set aside. The learned Senior Counsel, to support his contentions, relied on the following judgment of this Court and decisions of the Hon'ble Supreme Court:

1. 2007 (5) CTC 17 (*Sree Kamatchi Amman Constructions vs. The Divisional Manager and Ors*)
2. (1999) 9 SCC 283 (*Rajasthan State Mines & Minerals Ltd., vs. Eastern Engineering Enterprises and Another*)
3. (2007) 2 SCC 453 (*Ramnath International Construction (P) Ltd., vs. Union of India*)
4. (1997) 11 SCC 75 (*New India Civil Erectors (P) Ltd., vs. OIL & Natural Gas Corporation*)
5. (1988) 3 SCC 82 (*Continental Construction Co. Ltd., vs. State of Madhya Pradesh*)
6. (2006) 4 SCC 445 (*Hindustan Zinc Ltd., vs. Friends Coal Carbonisation*)

5 Mr.T.Mohan, learned Senior Counsel for the respondent/claimant submitted that the respondent entered into an agreement No.CE(AF)/BAN/31 of 2008-2009 with the appellant for a contract value of Rs.9,66,42,000/- with a contract period of 12 months and date of commencement of the work is 28.10.2008 and the date of completion of work as per the work order is 27.10.2009. The tender schedule contained



various pre approved firms dealing with PEB work, which were included in the contract, from and out of which, the respondent/claimant chosen Vardhman for executing PEB structures and the appellant approved the same.

5.1 The Vardhman, who has to supply pre-fabricated items and erect them at site, has very slow in supplying the said items. Even the components supplied were not completed to enable erection of the same. Despite knowing the same, the appellant did not take any action to address the said Vardhman. Since 71% of the contract value pertains to pre fabricate structures to be supplied by Vardhman and remaining 29% of the works pertains to all other miscellaneous works, which even if delayed or not progressed, the same will not affect the completion of overall project. Therefore the respondent was unable to show substantial progress as desired by the appellant and the work could not be completed as scheduled i.e. by 27.10.2009. Hence the respondent terminated supplementary contract with Vardhman and recommended M/s.Metal Scope (India) Private Limited, Pondicherry.

5.2 Apart from the delay caused by Vardhman, even the appellant has also further contributed in the delay. The appellant gave permission to demolish the existing fencing only on 15.12.2008, even though as per the schedule the date of commencement



of work is on 28.10.2008. Agency to procure Ready Mix Concrete (RMC) was approved only on 24.12.2008. Further FFL/Plinth levels of building and hard standing has to be decided by the appellant, which were very essential for commencement of excavation and the same were informed only on 15.02.2009.

5.3 Therefore, as no other option, the respondent sought extension of time for completion of work till 31.03.2010 and further requested time till 31.05.2010, but no response has come from the appellant and due to which, the respondent could not achieve progress of work adequately.

5.4 Further the appellant had recovered Rs.70,00,000/- pertaining to another contract in Andaman and Nicobar Islands, which also considerably affected the progress of work. As per the supplementary agreement entered into with Vardhman, the respondent was required to pay 30% of the agreement amount as initial advance and 60% on arrival of the materials at site on pro rata basis. Subsequently the respondent came to know about the poor performance of the Vardhman in another project and hence withheld 30% of advance and told Vardhman that payment will be made as and when the material reaches the site and Vardhman also agreed for the same and accordingly made supplies and payments were also made more than the value of materials brought to



the site. The Vardhman has not submitted bills for claiming pro rata rates for the materials supplied and hence the respondent was unable to pay on the pro rata basis.

WEB COPY

5.5 Therefore the learned Arbitrator considering all the above facts and the evidence let in before him awarded the claims totaling Rs.6,56,94,103/-under various heads, which is reasonable and fair. The Section 34 Court also finding the Award of the learned Arbitrator is fair, has confirmed the same and dismissed the petition filed by the appellant under Section 34 of the Act.

5.6 Now, Section 37 of the Act is very narrow than Section 34 of the Act, as it is having a limited supervisory scope focused on minimal judicial interference. Therefore at any angle, the Award passed by the learned Arbitrator need not be interfered with and this appeal is liable to be dismissed. To support his contention, the learned Senior Counsel placed reliance on the following decisions of the Hon'ble Supreme Court and other High Courts:

- 1. Civil Appeal Nos.3658-3659 of 2022 (M/s.ABS Marine Services vs. The Andaman and Nicobar Administration)*
- 2. 2026 SCC OnLine SC 33 (Jan De Nul Dredging India Pvt. Ltd., vs. Tuticorin Port Trust)*
- 3. Civil Appeal No.10216 of 2003 (Bharat Drilling & Treatment Pvt. Ltd., Vs. State of Jharkhand & Ors.)*



C.M.A.No.1000 of 2011

4. *Civil Appeal Nos.311-312 of 2003 (M/s.Asian Techs Ltd., vs. Union of India & Ors)*

5. *(1995) 12 SC CK 0054 (The Board of Trustees for the Port of Calcutta vs. Engineers- De-Space-Age.*

6 Heard Mr.G.Ilangovan, learned Central Government Senior Standing Counsel appearing for the appellant and Mr.T.Mohan, learned Senior Counsel for the respondent and perused the materials on record.

7 Admittedly the appellant entered into contract agreement No.CE(AF)/BAN/31 of 2008-2009 with the respondent on 14.10.2008 and as per which, the commencement of work is 28.10.2008 and completion of work is 27.10.2009. There was dispute arose between the appellant and the respondent and hence the respondent initiated arbitration proceedings and got award in his favour. Aggrieved over the award passed by the learned Arbitrator, the appellant invoked the provisions of Section 34 of the Act and failed on the same, against which, present Civil Miscellaneous Appeal has been filed.

8 According to learned Central Government Senior Standing Counsel for the appellant, the respondent has not completed the works within the original period and for



the delay caused by the supplementary contractor, the appellant could not be held responsible, who is no way connected with the supplementary contract between the supplementary contractor and the respondent.

9 It is the contention of the learned Senior Counsel for the respondent that due to non-cooperation of the appellant and the delay in supplying the materials by the supplementary contractor, the respondent could not complete the work within the original period and hence the respondent sought extension of time, but the appellant did not consider the difficulties faced by the respondent caused by the Vardhman, who is the approved supplier of the required materials, as per the tender schedule.

10 It is an admitted fact that Vardhman is one of the approved suppliers as per the tender schedule and due to poor performance of the approved supplier, the respondent could not complete the works within the original period and in-spite of knowing the poor performance of Vardhman, the appellant did not take any steps and finally the respondent terminated the supplementary contract with Vardhman and engaged M/s.Metal Scope (India) Private Limited, Pondicherry, which is main cause for the prolongation of contract.



11 The Arbitrator is the Master of evidence. Based on evidence adduced before him and the documents marked, the learned Arbitrator found that the appellant is liable for the delay and hence awarded the claims in favour of the respondent.

12 The learned Principal District Judge, Coimbatore, has elaborately discussed the Award passed by the learned Arbitrator in each and every head and given reason for upholding the same.

13 This Court, while exercising power under Section 37 of the Act, cannot re-appreciate the evidence and can only interfere, if the order passed by the Court, which dealt with the petition under Section 34 of the Act, suffers patently illegality or against public policy. The appeal under Section 37 of the Act is restricted to the narrow grounds provided under Section 34 of the Act, as it is having a limited supervisory scope focused on minimal judicial interference. As the learned Arbitrator is the Master of evidence, this Court, in a petition under Section 37 of the Act, cannot find fault with the factual findings rendered by the learned Arbitrator, especially when the same was confirmed by the learned Principal District Judge viz. the Seciton 34 Court.



WEB COPY

14 In the present case, the Arbitral Award has logical reasons in terms of the various clauses of the agreement and furthermore same was accepted by the Section 34 Court. Now, this Court, while sitting in an appeal under Section 34 of the Act, carefully perused the materials including the Award passed by the learned Arbitrator and the orders of the learned Principal District Judge, Coimbatore, which reveal that there is no patent illegality, warranting interference of this Court. There is no quarrel with the proposition of law laid down in the decisions referred to by the learned Senior Counsel for the appellant, but in view of the decisions rendered by the Hon'ble Supreme Court in *catena* of the cases as relied on by the learned Senior Counsel for the respondent, we find no reason to interfere with the Award passed by the learned Arbitrator.

15 In view of the above observations and reasons, we do not find any reason to interfere with the impugned order and the Civil Miscellaneous Appeal lacks merits and substance and hence the same is dismissed. Consequently connected miscellaneous petitions is closed. No costs.

[PVJ] [KGTJ]
25.03.2026

Neutral Citation : Yes/No
cgi

To
The Principal District Judge, Coimbatore.



WEB COPY



C.M.A.No.1801 of 2021

P.VELMURUGAN. J.
and
K.GOVINDARAJAN THILAKAVADI, J.

cgi

C.M.A.No.1801 of 2021

25.03.2026