Smt. Raj Rani

Vs

Chief Settlement Commissioner, Delhi and Others

Civil Appeal No. 485 of 1971

(D. A. Desai, R. B. Misra, A. P. Sen JJ)

03.05.1984

JUDGMENT

R. B. MISRA, J. -

1. The present appeal by certificate is directed against the judgment of the High Court dated of Delhi dated January 29, 1970 in letters patent appeal confirming the judgment and order of the learned Single Judge of the High Court dated January 7, 1970.

2. Nanak Chand, father of the appellant was a displaced person from West Pakistan where he had left agricultural lands in village Chhota Bhukh Autar, tehsil Bahawal Nagar, district Bahawalpur. After the partition of the country his claim bearing Index No. B/BP-3/259 was verified in his name for 26 standard acres 12 1/2 units. Nanak Chand disappeared sometime in December, 1954 and a report about his disappearance was lodged by the appellant's brother Dewan Chand, arrayed in this appeal as respondent 2, on December 25, 1954 with the local police, Malhout, district Ferozepur, Punjab. An enquiry was made by the police in the matter and ultimately the police gave out that Nanak Chand could not be traced.

3. In the year 1956 a notice was issued in suo moto revision in regard to the verified claim referred to above, by the Additional Settlement Commissioner, Delhi to Nanak Chand, claimant. As Nanak Chand could not and did not appear in compliance with the notice, the eldest brother of the appellant, namely, Dewan Chand, appeared before the Additional Settlement Commissioner, Delhi on October 25, 1956 and alleged that Nanak Chand had died leaving behind three sons, namely, Dewan Chand, Prabhu Dayal and Ashok Kumar (minor) as the only legal heirs of the deceased.

4. The learned Additional Settlement Commissioner by his order dated October 27, 1956 allowed the application for substitution and directed Dewan Chand, Prabhu Dayal and Ashok Kumar alone to be brought on the record as legal representatives of the deceased Nanak Chand, although Nanak Chand had left behind the aforesaid three sons, three daughters, namely Satnam Devi, Lajwanti and Smt. Raj Rani, and his widow Smt. Chandan Bai.

5. Prabhu Dayal, one of the three sons of Nanak Chand died in 1961 leaving behind his daughter Santosh Kumari. His widow Smt. Lajwanti applied for being substituted as an heir of the deceased along with her minor daughter Santosh Kumari. In 1964 the mother of the appellant also applied to the Settlement Officer that she and her three daughters may also be substituted as heirs and legal representative of Nanak Chand, deceased regarding payment of compensation in respect of the verified claim. They also prayed for condonation of delay in filing the application for substitution and for initiating proceedings under Section 9 of the Displaced Persons (Compensation and

Rehabilitation) Act, 1954. The Settlement Officer concerned recommended for condonation of delay in his report dated March 24, 1964 to the Regional Settlement Commissioner, Rajasthan with the delegated powers of Chief Settlement Commissioner, Rajasthan, who by his order dated April 6, 1964 condoned the delay and directed that the case may be processed and finalised according to rules.

6. When the relevant record was received by the M. O. /S. O. Rajasthan, the appellant's mother alleged that the previous order of substitution of heirs of Nanak Chand, deceased, had been obtained by fraud and misrepresentation practised by her sons inasmuch as they did not disclose in their application for substitution the existence of the appellant, her mother and sisters. The M. O.-cum-S. O. by his order dated November 16, 1964, dismissed the application of the mother of the appellant on the ground that the previous order dated October 27, 1956 passed by the Additional Settlement Commissioner declaring only three sons of Nanak Chand deceased as his heirs, to the exclusion of deceased's widow and daughters was never challenged by way of an appeal or revision, so the said order had assumed finality. He, therefore, declined to interfere and refused to grant redress. The mother of the appellant on her own behalf and on behalf of her three daughters, including the appellant, filed and appeal in the Court of the Regional Settlement Commissioner which came up before Shri. S. S. Govilla, S. O. with delegated powers of Regional Settlement Commissioner (Rajasthan) and by his order dated December 22, 1964 dismissed the same.

7. The mother of the appellant undaunted by the failures, filed a revision petition before the Chief Settlement Commissioner, which came up for hearing before Shri. D. N. Vohra, Settlement Commissioner with delegated powers of Chief Settlement Commissioner, and he also took the view that the order dated December 18, 1954 passed by the Additional Settlement Commissioner had become final and he had no jurisdiction to revise or amend the said order, and accordingly he dismissed the revision. Thereafter the mother moved the Central Government under Section 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 on her own behalf as well as on behalf of the appellant but the application was dismissed by the Central Government, Ministry of Rehabilitation. On August 30, 1965 the appellant also filed a revision against the order of the Additional Settlement Commissioner before the Chief Settlement Commissioner under Section 5 of the Displaced Persons (Supplementary) Verification of Claims Act, 1954, but this also met with the same fate on September 25, 1965 without affording an opportunity of being heard to the appellant.

8. The appellant eventually filed a writ petition before the High Court of Delhi giving rise to the present appeal against the orders dated September 25, 1965, passed by the Chief Settlement Commissioner, Delhi whereby he confirmed the order dated October 27, 1956 passed by the Additional Settlement Commissioner, refusing to substitute the appellant as legal heir of Nanak Chand, deceased. The writ petition was dismissed by an order dated January 7, 1970. The appellant unsuccessfully filed a letters patent appeal which was dismissed on January 29, 1970. Feeling aggrieved the appellant applied for a certificate under Article 133 of the Constitution, which was granted. This is how the appellant has come to this Court.

9. It is contended for the appellant that on October 27, 1956 she was a minor when the order was obtained by fraud and misrepresentation by Dewan Chand, without disclosing the names of other heirs viz. the appellant and her mother and two sisters. The appellant filed revision petition under Section 5 of the Claims (Supplementary) Act (12 of 1954) on November 27, 1964 before the learned Chief Settlement Commissioner, who without hearing the appellant and without affording her any opportunity to substantiate her pleas, dismissed the revision petition on September 25, 1965. This was in violation of the principles of natural justice.

10. The High Court chose to rely on the deposition of Dewan Chand, respondent 2, to the effect that his father had been murdered and he produced a certificate of death before the Chief Settlement Commissioner certifying that Nanak Chand died one year ten months prior to October 25, 1956 and this certificate is alleged to have been given on the application filed by Dewan Chand before the President of the Municipal Committee, Abohar. The learned Single Judge of of the High Court observed that the Additional Settlement Commissioner acted rightly in relying upon the certificate and substituting the sons of Nanak Chand as heirs of the deceased to his verified claim, on the ground that as Nanak Chand had died prior to the enforcement of the Hindu Succession Act his daughters would not be heirs and could not succeed to the property of their father.

11. Shri. Thakur, learned counsel for the appellant strenuously contended that if he had been given an opportunity by the Chief Settlement Commissioner he would have been able to produce the evidence before him that on the own admission of Dewan Chand, Nanak Chand had disappeared sometime in December, 1954 and a report about his disappearance was lodged by Dewan Chand on December 25, 1954 with the local police, Malhout, district Ferozepur and as a result of an enquiry the police gave out that Nanak Chand could not be traced. This evidence could not be produced before the Chief Settlement Commissioner because the appellant was not heard.

12. The decision of this case hinges on the question whether Nanak Chand had died before or after the enforcement of the Hindu Succession Act. If he died before the enforcement of the Hindu Succession Act obviously the daughters could not get any share in the property left by Nanak Chand. If on the other hand he died after the enforcement of the Hindu Succession Act, the daughters would be equally entitled to a share in the property left by Nanak Chand. In any case the widow of Nanak Chand would be entitled to a share in the property irrespective of the fact whether Nanak Chand died before or after the Hindu Succession Act. This aspect of the case has been completely lost sight of by the High Court. If Nanak Chand disappeared in December, 1954 on the report of Dewan Chand himself and has not been heard of for seven years by those who would naturally have heard of him if he has been alive, there could be raised a presumption of death when the question arises. But in the instant case no presumption arises as the question arose just two years after the date of disappearance.

13. As regards the actual date of death the High Court dealing with the death certificate observed as follows :

> As an administrative officer doing quasi-judicial work, the Additional Settlement Commissioner was entitled to give credence to the death certificate. He was bound only to make a preliminary enquiry as to who were the heirs of Nanak Chand. He did not have to decide that question finally. For a preliminary enquiry the death certificate signed by the respectable persons of the place where the family resided was sufficient. Therefore, the Additional Settlement Commissioner was satisfied that the substitution of the sons of Nanak Chand in place of the deceased would not prejudicially affect his daughter. It was not, therefore, necessary for him to have given an opportunity to the daughter of being heard under sub-section (2) of Section 5 of the Displaced Persons (Claims) Supplementary Act, 1954.

A certificate given by respectable persons of the place where the deceased once resided, to say the least, is not admissible in evidence. Section 35 of the Evidence Act provides that an entry in any public or other official book, register, or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty

specially enjoined by the law of the country in which such book, register or record is kept, is itself a relevant fact.

14. In the instant case a certificate by certain respectable person of the place where the family once resided does not satisfy the requirements of Section 35 of the Evidence Act. There is no proof that any statutory duty was cast upon the person issuing the certificate to keep a record of birth and death and therefore, the certificate of death has no evidentiary value. It is very easy for a person to obtain death certificate from the so-called respectable persons in order to grab the property. If according to Dewan Chand, Nanak Chand had died he must also indicate where did he die and it is the place of his death which will be relevant and not the place of his birth or residence. The certificate obviously is not of the place where Nanak Chand died. We are of the view that the authorities have gravely erred in relying upon the certificate of death which was inadmissible in evidence.

15. The High Court repelled the contention raised on behalf of the appellant that opportunity should have been given to the appellant under Section 5 (2) of the Displaced Persons (Claims) Supplementary Act, 1954 merely on the assumption that Nanak Chand had died much before the enforcement of the Hindu Succession Act and, therefore, no prejudice has been caused to the daughters as they would not be an heir. It is simply begging the question. Whether daughters would be entitled to an interest in the property left by Nanak Chand will depend upon the death of Nanak Chand before the enforcement of Hindu Succession Act or not. For that it was absolutely essential that an opportunity should have been afforded to the appellant in accordance with the principle of natural justice. As observed earlier, if an opportunity had been given to the appellant she would have produced the admission of Dewan Chand that his father Nanak Chand disappeared sometime in December, 1954 and as a result of an enquiry by the police, no trace of him could be found out.

16. The finding that Nanak Chand died before the enforcement of Hindu Succession Act, based on the death certificate, cannot be sustained for a moment as it is based on an inadmissible piece of evidence. If that finding is set aside, there is no escape from the conclusion that Nanak Chand died not before but after the enforcement of the Hindu Succession Act, that is, after October 25, 1956.

17. There is no dispute that Nanak Chand died leaving behind his widow, three sons and three daughters. Dewan Chand fraudulently obtained an order alleging that Nanak Chand died leaving behind only three sons. If Nanak Chand died after the enforcement of the Hindu Succession Act, as found earlier, obviously his widow, three sons and three daughters would succeed to his interest in equal shares, which would work out to one-seventh. Now the question arises what was the interest of Nanak Chand at the time of his death. As the property in question was Mitakshara coparcenary property, his interest would be determined in accordance with the provisions of Explanation 1 of Section 6 of the Hindu Succession Act. It would be appropriate at this stage to read Section 6 insofar as it is material for the purposes of this case :

> 6. When a male Hindu dies after the commencement of this Act, having at the time of his death an interest in a Mitakshara coparcenary property, his interest in the property shall devolve by survivorship upon the surviving members of the coparcenary and not in accordance with this Act :
>
> Provided that, if the deceased had left him surviving a female relative specified in Class I of the Schedule or a male relative specified in that class who claims through such female relative, the interest of the deceased in the Mitakshara coparcenary

property shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship.

Explanation 1. - For the purposes of this section, the interest of a Hindu Mitakshara coparcener shall be deemed to be the share in the property that would have been allotted to him if a partition of the property had taken place immediately before his death, irrespective of whether he was entitled to claim partition or not.

The interest of Nanak Chand shall be deemed to be the share in the property that would have been allotted to him if a partition of the property had taken place immediately before his death irrespective of whether he was entitled to claim partition or not. In view of Explanation 1 of Section 6, Nanak Chand would have got one-fifth interest on partition between him and his wife and three sons. If once the interest of Nanak Chand is determined to be one-fifth before his death, his interest would devolve upon his widow, sons and three daughters equally and thus the share of each one of them would be 1/5 x 1/7, that is one-thirty-fifth each. The claim of these heirs cannot be denied merely because some of them have not advanced the claim. When the question of determination of share among the heirs crops up before the Court, the Court had to see that every heir gets his due. Shri Itorora appearing for the respondents could not successfully meet the point raised on behalf of the appellant.

18. For the foregoing discussion the appeal must succeed and it is accordingly allowed and the judgment of the High Court as well as of the authorities below are set aside and shares of the three sons, three daughters and the widow are determined as follows : Each of the three sons - 1/35; each of the three daughters - 1/35; the widow - 1/35 + 1/5. As the widow has inherited the interest of her husband after his death her share would be augmented by 1/5. Therefore, her share would come to 1/35 + 1/5 = 8/35.

19. In the circumstances of the case we direct the parties to bear their own costs.

EXECUTIVE ENGINEER, IRRIGATION DIVISION, PURI, APPELLANT v. GANGARAM CHHAPOLIA, RESPONDENT.

Civil Appeal No. 7446 of 1983 (Appeal by special leave from the Judgment and Order dated November 6, 1980 of the Orissa High Court in Civil Revision No. 416 of 1980), decided on October 24, 1983.

JUDGMENT

The Judgment of the Court was delivered by

A. P. SEN, J. - This appeal by special leave is directed against an order of the Orissa High Court dated November 6, 1980 summarily dismissing a revisions filed by the appellant and upholding the

order of the Subordinate Judge, Cuttack dated march 26, 1980 allowing an application made by the respondent under Section 8 read with Section 20 of the Arbitration Act, 1940, by which the learned Subordinate Judge has set aside the appointment of the Superintending Engineer, Irrigation by the Chief Engineer to be the arbitrator and instead appointed a retired District and Sessions Judge of Cuttack as the arbitrator.

2. Put briefly, the essential facts are these. The respondent herein is a contractor and had entered into an agreement being Agreement No. 1 F-2 of 1970-71 within the State Government of Orissa relating to the Excavation of Satankha Distributory with its minor and sub-minor from O. M. to Tail. The respondent raised a dispute and served a notice on the Chief Engineer for the appointment of an arbitrator under Clause 23 of the Agreement. Subsequent to the said notice, he filed an application under Section 8 read with Section 20 of the Act before the Subordinate Judge, Cuttack praying for the appointment of an arbitrator by the Court alleging that the Chief Engineer had not appointed an arbitrator under Clause 23 within the stipulated period of 15 days and therefore lost his power to appoint an arbitrator. The appellant entered appearance in the proceedings and raised an objection against the maintainability of the application under Section 8 read with Section 20 of the Act on the ground that the Chief Engineer had already appointed D. Sahu, Superintending Engineer, Irrigation to be the arbitrator, fact of which was intimated to the respondent on November 20, 1978 and as such there was no occasion for the Court to appoint an arbitrator. On December 19, 1979, the respondent filed another application contending that the appointment of D. Sahu, Superintending Engineer, Irrigation as arbitrator was illegal and improper and hence liable to be set aside. It was asserted by the respondent that as per Clause 23 of the Agreement, the Chief Engineer could appoint a Superintending Engineer belonging to the State Public Works Department, and none else.

3. The learned Subordinate Judge by the impugned order held that under Clause 23 of the Agreement, the Chief Engineer was empowered to appoint a Superintending Engineer of Works Department who was not connected with the work, as arbitrator and in case no such Superintending Engineer was available, the Chief Engineer had himself to enter upon the reference. He further held that D. Sahu, Superintending Engineer, Irrigation being directly subordinate to the Chief Engineer, his appointment as arbitrator was invalid. The learned Subordinate Judge accordingly set aside the order of the Chief Engineer appointing D. Sahu, Superintending Engineer, Irrigation to be the arbitrator, and further held that the Chief Engineer having failed to appoint an arbitrator within 15 days of the receipt of the notice, he had no power to appoint an arbitrator, and instead directed B. S. Patnaik, retired District and Sessions Judge, Cuttack to be the arbitrator. Dissatisfied with the decision of the learned Subordinate Judge, the appellant went up in revision before the High Court but the High Court declined to interfere saying that it found no justification for the same.

4. The appeal must turn on a proper construction of the words Superintending Engineer, State Public Works Department unconnected with the work' appearing in Clause 23 of the Agreement. The question involved has now become purely academic in view of the subsequent legislation by the State Legislature inserting new Section 41-A to the Act. But it is necessary to deal with the question as the decision may affect the validity of similar reference by the Chief Engineer to a Superintending Engineer under Clause 23 of the Agreement.

5. By Clause 23 of the Agreement, it is provided :

Clause 23 - Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specifications, designs, drawings, and instructions hereinbefore mentioned, and as to the quality of workmanship, or materials used in the work, or as to any other questions, claim,

right, matter, or thing whatsoever, in any way arising out of, or relating to the contract, designs, drawings, specifications, estimates, instructions, orders, or these conditions or otherwise concerning the work or the execution, or failure to execute the same, whether arising during the progress of the work, or after the completion or abandonment of thereof shall be referred to the sole arbitration of a Superintending Engineer of the State Public Works Department unconnected with the work at any stage nominated by the concerned Chief Engineer. If there be no such Superintending Engineer it should be referred to the sole arbitration of the Chief Engineer concerned. It will be no objection to any such appointment that the arbitrator so appointed is a Government servant. The award of the arbitrator so appointed shall be final, conclusive and binding on all parties to these contract.

6. The learned Subordinate Judge by the impugned order accepted the contention advanced by the respondent as to the invalidity of the appointment of D. Sahu, Superintending Engineer, Irrigation to be the arbitrator. On a reading of the arbitration clause, the learned Subordinate Judge observes :

It is seen that as per the above clause, the Chief Engineer is under a legal obligation to appoint an S. E. of Works Department unconnected with the work in question and if such S. E. is not available he himself should enter into such reference. There is no denial that Sri. D. Sahu is an S. E. of Irrigation Department who is direct subordinate to the Chief Engineer, Irrigation and so the appointment of Sri. D. Sahu who is the S. E. of the Irrigation is in violation of the terms of the Agreement as per Clause 23 and so in the eye of law, it is not a valid appointment. An appointment of an arbitrator which is invalid one is no appointment. It therefore follows that the Chief Engineer has not made a valid appointment in term of Clause 23 of the deed of agreement within 15 days and so his right to appointment as arbitrator to adjudicate the dispute between the parties is extinguished. Therefore, the reference made by the Chief Engineer to Sri D. Sahu, the S. E. of Irrigation Department is void.

7. There can be no doubt whatever that the order passed by the learned Subordinate Judge was based on a construction of Clause 23 which was patently erroneous. The learned Subordinate Judge failed to appreciate that the expression "State Public Works Department" in Clause 23 of the Agreement was a wider connotation and he wrongly assumed that D. Sahu, Superintending Engineer, Irrigation did not belong to the State Public Works Department. The Public Works Department has different wings like Irrigation and Power, Public Health and Works Department etc. In the Orissa Public Works Department Code, Volume 1, Revised Edn., 1976 in the definition clause at 1.2 of Chapter 1 are given the meaning of the expressions "Public Works" and "Public Works Department". Paragraphs 21 and 22 are extracted below :

21. "Public Works" means several works, public health, engineering works, irrigation, navigation, embankment and drainage works and electricity works.

22. "Public Works Department" means the Department of the State Government in administrative charge of Public Works.

8. There was really no illegality on the part of the Chief Engineer in appointing D. Sahu, Superintending Engineer, Irrigation to be the arbitrator since he belongs to the Public Works Department. There was an is no such department called Works Department in the State of Orissa. The term "State Public Works Department" used in Clause 23 is not apparently non-existent because it is now split into several departments of the Government, one of which is the Department of Irrigation. Further, the words "unconnected with the work" appearing in Clause 23 did not imply that the Chief Engineer could not appoint D. Sahu, Superintending Engineer, Irrigation to be the arbitrator or that he was not competent to adjudicate upon the dispute between the parties as he was

not he was admittedly not connected with the works in question viz. Excavation of Satankha Distributory with its minor and sub-minor from O. M. to Tail. The words "unconnected with the work" in Clause 23 do not relate to the department concerned dealing with a works contract in question viz. the Department of Irrigation as here, but to the particular works contract in relation to which the dispute has arisen between the parties.

9. The general rule that grammatical and ordinary sense of the contract is to be adhered to unless such adherence would lead to such manifest absurdity or such repugnance or inconsistency, applies also to building and construction contracts. The meaning and intention of the parties has to be gathered from the language used. The use of the expression "Superintending Engineer, State Public Works Department" in Clause 23 qualified by the restrictive words "unconnected with the work" clearly manifests an intention of the parties that all questions and disputes arising out of a work contract shall be referred to the sole arbitration of a Superintending Engineer of the concerned department. From the very nature of things, a dispute arising out of a works contract relating to the Department of Irrigation as he is an expert on the subject and it cannot obviously be referred to a Superintending engineer, Building and Roads. The only limitation on the power of the Chief Engineer under Clause 23 was that he had to appoint a "Superintending Engineer unconnected with the work" i.e. unconnected with the works contract in relation to which the dispute has arisen. The learned Subordinate Judge was obviously wrong in assuming that since D. Sahu, Superintending Engineer, Irrigation was subordinate to the Chief Engineer, he was not competent to act as an arbitrator or since he was a Superintending Engineer, Irrigation, he could not adjudicate upon the dispute between the parties. The impugned order passed by the learned Subordinate Judge is accordingly set aside.

10. We must next advert to the change in the law. During pendency of the appeal, the State Legislature of Orissa enacted the Arbitration (Orissa Amendment) Act, 1982 which was reserved for the assent of the President of India and received such assent on March 21, 1983. By Section 3 of the Amendment Act, a new Section 41-A is inserted which reads :

41-A. Constitution of any reference to the Arbitration Tribunal. - (1) Notwithstanding anything contained in this Act or in any provisions contained in Section 47, in all case where the State Government, a local or other authority controlled by the State Government, a statutory corporation or a Government company is a party to the dispute, all references to arbitration shall be made to the Arbitration Tribunal.

(2) The State Government shall constitute an Arbitration Tribunal constitute an Arbitration Tribunal consisting of the following members, namely :

(a) one member chosen from among the officers belonging to the Orissa Superior Judicial Service (Senior Branch);

(b) one member chosen from among the officers of the Public Works Department of the State Government not below the rank of a Superintending Engineer;

(c) one member chosen from among the officers belonging to the Orissa Finance Service not below the Superior Administrative Cadre in Class I.

(3) The member chosen from the Superior Judicial Service (Senior Branch) shall be the Chairman of the Tribunal.

(4) The terms and conditions of appointment of the members of the Tribunal and the headquarters thereof shall be as may be determined by the State Government from time to time.

(5) The business of the Arbitration Tribunal shall be conducted in such manner as the Tribunal may determine.

(6) The Arbitration Tribunal constituted by the State Government under the Arbitration Tribunal Rules, 1979 with its members holding office immediately prior to the commencement of the Arbitration (Orissa Amendment) Act, 1982 shall be deemed to be the Arbitration Tribunal constituted under this Act and shall continue to hold office till the Tribunal is re-constituted by the State Government.

(7) All arbitration proceedings relating to a dispute of the nature specified in sub-section (1) which are pending before any arbitrator on the date of commencement of the Arbitration (Orissa Amendment) Act, 1982 and in which no award has been made by the said date, shall stand transferred to and disposed of by Arbitration Tribunal.

11. By reason of the non obstante clause contained in sub-section (1) of Section 41-A of the Act, all references to arbitration in which the State Government, a local or other authority controlled by the State Government, a statutory corporation or a Government company is a party have to be made to the statutory Arbitration Tribunal constituted under sub-section (2) thereof. Sub-section (7) of Section 41-A provides that all arbitration proceedings relating to a dispute of the nature specified in sub-section (1), on or before the date of commencement of the Act in which is the date of publication of the Act in the Official Gazette, shall stand transferred to and disposed of by the said Arbitration Tribunal.

12. In the result, the appeal succeeds and is allowed. The impugned order passed by the Orissa High Court dated November 6, 1980 as also the order passed by the Subordinate Judge, Cuttack dated March 26, 1980 are set aside and the dispute is referred to the Arbitration Tribunal constituted under sub-section (2) of Section 41-A of the Arbitration Act, 1940 as amended by the Arbitration (Orissa Amendment) Act, 1982 as enjoined by sub-section (7) of Section 41-A of the Act. There shall be no order as to costs.

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