

Hindustan Tea Co.

Vs

(K. Sashikant Co., and Another)

Civil Appeal No. 1846 (N) of 1972

(Ranganath Misra, S. Natarajam JJ)

13.11.1986

JUDGMENT

RANGANATH MISRA, J. -

1. This appeal is by special leave. An application was filed before the Calcutta High Court for appointment of a Receiver in regard to management of two Tea Estates by name Hattichera tea Estate and Subong Tea Estate. By the impugned order dated June 20, 1972, the High Court directed :

The Official Receiver is appointed Receiver in terms of the prayer (a) of the petition. Mr. Tara Chand Agarwalla of the respondent firm and Dineshbhai Patel of the petitioner firm are appointed joint managers under the Official Receiver to run and manage the day to day business at the two tea gardens.

During the pendency of this appeal on February 27, 1974, this Court made the following order :

The application is not opposed. Mr. G. K. Mitter, retired Judge of the Supreme Court is appointed as Umpire. Parties agree that they would pay the Umpire's fee in equal share. No time limit is fixed for making the Award by Umpire.

Parties appeared before the Umpire and after protracted hearing of the matter, spread over several years the Umpire made his Award, dated June 30, 1982 and the same has now come before the court. The appellant file and application under Section 30 and 33 of the Arbitration Act praying to the court that the Award may be set aside either as a whole or in part keeping the several objections raised in the petition in view.

2. The Award is reasoned one. The objections which have been raised against the Award are such that they cannot indeed be taken into consideration within the limited ambit of challenge admissible under the schemes of the Arbitration Act. Under the law, the Arbitrator is made the final arbiter of the dispute between the parties. The Award is not open to challenge on the ground that the Arbitrator has reached a wrong conclusion or has failed to appreciate facts. Strong reliance was placed by the appellant's learned counsel on an old Madras decision in Yogambal Boyee Ammani Ammal v. Naina Pillai Markayar. In our view, on the facts of this case challenge to the Award is not permissible by taking the stand that the Arbitrator acted contrary to the provisions of Section 70 of the Contract Act. In these premises the objection filed to the Award has to be rejected. We directed the Award to be made a rule of the court. The parties shall bear their own costs throughout.

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