

SUPREME COURT OF INDIA

Vasudev P.Hanji

Vs.

Ashok Shivalingappa Humarwadi

C.A.No.1338 of 2008

(H.K.Sema and Markandey Katju, JJ.)

15.02.2008

ORDER

(Arising out of SLP(C) NO. 12349/2006)

1. Leave granted.

2. After the award passed by the Arbitrator, appellant challenged the Award under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act'). The appellant also filed application under Section 9 of the Act for granting stay of the award. The said application has been rejected both by the Principal Civil Court and the High Court.

3. While rejecting the application filed under Section 9 of the Act, both the Courts relied on the decision rendered by 2-Judge Bench of this Court in the case of *National Aluminium Co. Ltd. Vs. Pressteel & Fabrications (P) Ltd. and Anr. Reported¹ in* We have been taken through the entire judgment of this Court. In National Aluminium's case (supra), this Court did not consider the provisions of Section 9 of the Act at all. In that view of the matter, we are of the view that the said judgment is distinguishable in the facts of the present case.

4. In that view of the matter, the order of the High Court is set aside and the appeal is allowed. Let application under Section 9 of the Act be considered by the Principal Civil Judge independently on its own merits.

Judgment Referred.

¹(2004) 1 SCC 0540