

M/s. Sri Paravathi Parmeshwar Cables & Others

v.

A.P. Transmission Corp. Ltd.& Another

(Supreme Court Of India)

HON'BLE CHIEF JUSTICE MR. ALTAMAS KABIR HON'BLE MR. JUSTICE
SURINDER SINGH NIJJAR HON'BLE MR. JUSTICE J. CHELAMESWAR

Civil Appeal No. 2027 Of 2007 With Civil Appeal No. 2026 Of 2007 | 06-12-2012

1. These appeals are directed against the common final judgment and order dated 28th August, 2006, passed by the Andhra Pradesh High Court in Civil Revision Petition Nos. 1815 to 1822, 1824 to 1826 and 1828 of 2005, 1823 and 1827 of 2005 respectively, dismissing the revision petitions filed against the order of the trial court, seeking directions to the applicants under Section 34 of the Arbitration and Conciliation Act, 1996, to deposit 75 per cent of the amount awarded or to dismiss the main original petitions for non-compliance of Section 7 of the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993. After considering the provisions of Section 7 and other relevant provisions of the above Act, the High Court dismissed the Revision Applications. These appeals have been preferred against such dismissal.

2. During the pendency of these appeals, the same question, as was considered by the High Court in these appeals, fell for consideration of this Court in Snehadeep Structures Private Limited Vs. Maharashtra Small-Scale Industries Development Corporation Limited, 2010 (3) SCC 34, and this Court while disagreeing with the proposition, that 75% of the awarded amount was required to be deposited before the appellants' application under Section 34 of the Arbitration and Conciliation Act, 1996, could be heard, ultimately held that the term "award" appearing in Section 7 of the Interest Act, 1993, would include an application under Section 34 of the Arbitration and Conciliation Act, 1996, as well. While considering the matter, this Court had occasion to specifically deal with the decision of the High Court in this case and on the basis of its decision, this Court in categorical terms over-ruled the contentions of the High Court while deciding this case.

3. Mr. K.V. Vishwanathan, learned senior counsel appearing for the respondents, however, urged that while considering the matter, this Court had no occasion to consider the impact of Section 36 of the 1996 Act and that, in any event, at the time when the Award was made, the provisions of the 1996 Act had not come into force. Accordingly, one would have to refer back to the Arbitration Act, 1940, in order to appreciate the views expressed by the High Court. As has been pointed out by Mr. Ganguly, learned senior counsel appearing in support of the appeals, the said submission of Mr. Vishwanathan, is also taken care of by sub-Section (4) of Section 2 of the 1996 Act, which reads as follows:-

"(4) This Part except sub-Section(1) of Section 40, Sections 41 and 43 shall apply to every arbitration under any other enactment for the time being in force, as if the arbitration were pursuant to an arbitration agreement and as if that other enactment were an arbitration agreement, except in so far as the provisions of this Part are inconsistent with that other enactment or with any rules made thereunder."

4. Having regard to the above and having regard to the fact that Section 7 of the Interest Act includes the expression "Award", we see no reason to take a different view from that as has been expressed in Snehadeep's case (supra).

5. The appeals are, accordingly, allowed. The judgment and the order of the High Court is set aside.

6. There will be no order as to costs.