
(1959) 04 MAD CK 0005
In the Madras High Court

C.P. Ramaswamy Naidu

APPELLANT

Vs

Salammal and Others

RESPONDENT

Date of Decision : 21-04-1959

Acts Referred:

Arbitration Act, 1940 — Section 20, 40

Citation : (1959) 72 LW 639 : (1959) 2 MLJ 417

Hon'ble Judges : Ramachandra Ayyar, J

Bench : Single Bench

Judgement

Ramachandra Ayyar, J.—This Civil Revision Petition is directed against the order of the learned Subordinate Judge in O.P. No. .. of 1958

directing the petitioner to pay Court-fee as under Article 11(re) of Schedule II of the Court-fees Act of 1955.

2. The petition that was filed in the lower Court was at the instance of the Arbitrator u/s 14(2) of the Arbitration Act, 1940, for filing the award

passed by him. The petition was filed with a Court-fee of Rs. 10 under Article 11, Sub-clause (I) of Schedule II of the Act. The learned

Subordinate Judge held that the Court-fee paid was insufficient and that the proper Court-fee was payable under Article 11(n); Article 11(n)

states:

Application u/s 14 or Section 20 of the Arbitration Act, 1940, for direction for filing an award or for an order for filing an agreement and

application for enforcing foreign awards.

It is not necessary for the purposes of the present case to refer to the rest of the Article. Article 11(1) refers to the original petitions not otherwise

provided for. The question therefore is whether the application for filing the

award u/s 14 of the Arbitration Act at the instance of the Arbitrator

would come under Article 11(n). If it does not come under that Article, the residuary provisions under Sub-clause (1) would apply.

3. u/s 14 of the Arbitration Act there is a well-marked distinction between the case where the Arbitrator himself applies to have the award filed

and the case where he omits to do so and the party prays the Court for giving directions to the Arbitrator to file the award. Section 14(2) runs thus:

The Arbitrator or Umpire shall, at the request of any party to the arbitration agreement or any person claiming under such party or if so directed by

the Court and upon payment of the fees and charges due in respect of the arbitration and award and of the costs and charges of filing the award,

cause the award or a signed copy of it, together with any depositions and documents, which may have been taken and proved before them, to be

filed in Court, and the Court shall thereupon give notice to the parties of the filing of the award.

This section uses the word "directed" only to cases where the party applies to the Court for the purpose of making the Arbitrator file the award.

The word " directed " does not apply to a case where the Arbitrator himself applies for the filing of the award as no direction of the Court would

be necessary for the Arbitrator to file the award which he can do at any time. The distinction between the case of an Arbitrator himself filing an

award and the case where one of the parties to the reference wants to" compel him to file an award has been recognised in the periods of limitation

prescribed for each of the remedies. As Article 11(n) of Schedule II of the Court-fees Act contemplates an application seeking a direction for filing

an award, it can only comprehend the case where the party wants a direction from Court to the Arbitrator to file the award. It cannot apply to a

case where without any direction of the Court the Arbitrator under the right given to him u/s 14(2) himself proceeds to file the award. Such a case

has not been provided for in Article 11(n) or elsewhere in the Act. It therefore follows that the present case would come only under Article 11(1)

of the Court-fees Act and the Court-fee paid on the application in the lower Court was correct.

4. The lower Court's order is set aside and the lower Court is directed to take the application on its file and dispose of it afresh in accordance with

law. No order as to costs.