
(1997) 09 SC CK 0139

In the Supreme Court Of India

Case No : Civil Appeals Nos. 6256-57 Of 19971

G.S.D. Construction

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 12-09-1997

Acts Referred:

Arbitration Act, 1940 — Section 20, 28

Citation : AIR 1999 SC 1576 : (1999) 2 ARBLR 694 : (1998) 1 PLJR 30 : (2000) 10 SCC 462

Hon'ble Judges : S. P. Kurdukar, J;M. M. Punchhi, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Leave granted. Heard learned Counsel.
2. This virtually is an appeal against the judgment and order of a learned single Judge of the High Court of Patna affirming in appeal a decision of the Subordinate Judge, Bhabua whereby making the award of the Arbitrator as the Rule of the Court was declined. The letters Patent Appeal preferred against the order of the learned single Judge was dismissed as not maintainable.
3. The appellant herein filed an application u/s 20 of the Arbitration Act, 1940 before the Court in connection with his dispute with the Respondent-State of Bihar. While the court was in seisin of the application/ the parties referred the dispute to a named Arbitrator who gave an award beyond the two months time stipulated for the purpose. When the award was sought to be made the Rule of the Court, bar of limitation was successfully set (sic) before the Subordinate Judge, which bar was affirmed by the High Court in the judgment under appeal.
4. The High Court took the view that Section 28 of the Arbitration Act, 1940 allowed the Court, if it thought fit, to enlarge from time to time the time for making the award and since extension of time had not been obtained from the Court consciously its mere adjourning the matter in the mechanical manner and

without application of mind would by no stretch of imagination be deemed to be an enlargement of time for making the award come in terms of Section 20 of the Act.

5. It is contended on behalf of the appellant that if there was no deemed extension as sought to be pleaded then both the Subordinate Judge as well as the High Court were empowered to enlarge time even when the award had been made and on their failure to do so, it is pleaded that this Court may intervene to do the needful. Reliance has been placed on a decision of this Court in State of Punjab Vs. Hardy, wherein it has been held that when remanding the case to the High Court for deciding other issues, this Court can enlarge the time for making the award. On behalf of the Respondents, it has not been seriously disputed that such power is there and there is no reason spelled out in the pleading of the parties and the judgments of the Courts below as to why such time be not enlarged by this Court. Rather, it has been impressed that in the event of the matter being remitted back for further consideration as to whether the award need be made the Rule of the Court time may be enlarge.

6. Agreeing with the submissions made by both counsel, we enlarge the time till the date the award was actually made by the Arbitrator and modify the impugned order of the High Court to this event remitting the matter back to the Court of a Subordinate Judge Bhabua for proceeding further towards making the award the Rule of the Court after deciding such other issues as may have arisen.