
(2012) 01 KAR CK 0053

In the Karnataka High Court

Case No : M.F.A. 1334 of 2010 (AA) and Miscellaneous Cvl. 3240 of 2010

K. Siddappa

APPELLANT

Vs

National Highways Authority of India

RESPONDENT

Date of Decision : 06-01-2012

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 34 (2)
National Highways Act, 1956 — Section 3 G (7) (d) (a)

Citation : (2012) 01 KAR CK 0053

Hon'ble Judges : N.K. Patil, J;C.R. Kumaraswamy, J

Bench : Division Bench

Advocate : K. Suman, for the Appellant; Manjunath.C, for Singhania and partners, Advocate for R1; and Sri. Sangamesh.G. Patil, AGA for R3; R2, for the Respondent

Final Decision : Dismissed

Judgement

1. The appellant, assailing the correctness of the judgment and order dated 29th October 2009 passed in Arbitration Case (A) No. 15/2006 on the file of the Principal District Judge, Chitradurga, wherein, the Court below has set aside the award passed by the third respondent-Arbitrator, has presented this appeal. The brief facts of the case are: the respondent Nos. 1 and 2 herein have filed an Arbitration case against claimant and the Arbitrator before the Principal District Judge, Chitradurga, in Arbitration Case (A) No. 15/2006 u/s 34(2) of the Arbitration and Conciliation Act, 1996, with a prayer to set aside the order passed by the third respondent-Arbitrator in No. LAQ:C-R:152:2004-05 dated 8.8.2006 in respect of the land to an extent of 14,157 sq. ft. in Sy. No. 202/1B2B of Metikurke village, Hiriya taluk, belonging to the appellant -claimant and which has been notified and acquired for widening of National Highways by first respondent through the competent authority. The said matter had come up for consideration before the Court below, which in turn, after considering the oral and documentary evidence has allowed the said appeal and set aside the order passed by the third respondent Arbitrator.

2. Being aggrieved by the impugned judgment and order passed by the Court below, the appellant-claimant has presented this appeal.

3. We have heard the learned counsel appearing for the appellant, learned counsel for first respondent and learned Additional Government Advocate for third respondent.

4. Learned counsel appearing for the respondents, at the outset, submitted that, the subject matter involved in this case is directly covered by the Judgment and award passed by the Division Bench of this Court dated 1st June 2011 in M.F.A. NO. 7297/2009 (Paramashivam dead by his Lrs. Vs. National Highways Authority of India and others). Therefore, they submitted that, following the aforesaid judgment passed by this Court, the instant appeal may also be disposed of.

5. Learned counsel for the appellant submitted that, placing the above submission on record, this appeal may be disposed of.

6. The above submissions made by learned counsel for the parties are placed on record. In the light of the submissions made by learned counsel for the parties and following the judgment of the Division Bench of this Court dated 1st June 2011 In M.F.A. No. 7297/2009 (Paramashivam dead by his Lrs. Vs. National Highways Authority of India and others). and for the reasons stated therein, the instant appeal is disposed of as follows:

The appeal is allowed in part. The order dated 8.8.2006 passed by the third respondent-Arbitrator in LAQ:C.R:152/2004-05 and the impugned Judgment and order dated 23rd December 2006 passed by the Principal District Judge, Chitradurga in Arbitration Case (A) No. 15/2006 are hereby set aside. The matter stands remitted back to the third respondent to decide the matter on merits, in compliance of Sections 3G(7)(d)a) to (d) of National Highways Act, 1956, without being influenced by the observations made by the learned District Judge in the impugned judgment and also the observations made by us during the course of this judgment and decide the same independently, on merits, after affording opportunity to both the parties to adduce additional evidence, if any, oral or documentary, as expeditiously as possible, in any event, within a period of six months from the date of receipt of copy of this judgment.

In view of the disposal of the main appeal on merits, the prayer sought by the appellant in Misc. Cvl. does not survive for consideration. Hence, Misc. Cvl. 3240/2010 is dismissed as having become infructuous. Ordered accordingly.