
(2021) 12 UK CK 0273

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2814 Of 2021

Meenakshi Agarwal & Others

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 28-12-2021

Acts Referred:

Arbitration & Conciliation Act, 1996 — Section 34

Citation : (2021) 12 UK CK 0273

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : T.A. Khan, Mohd. Safrin, Suyash Pant

Final Decision : Allowed

Judgement

Manoj Kumar Tiwari, J

1. By means of this writ petition, petitioners have challenged the order dated 10.01.2021 passed by District Judge, Udham Singh Nagar, whereby Arbitration Case No. 5 of 2006 filed by them under Section 34 of Arbitration & Conciliation Act, 1996 against award given by Commissioner, Kumaon Division has been ordered to be transferred to Commercial Court, Dehradun.

2. Mr. T.A. Khan, learned Senior Advocate appearing for petitioners submits that identical question between same parties has been decided by this Court vide judgment dated 03.08.2021 rendered in WPMS No.961 of 2021.

3. Mr. Suyash Pant, learned Standing Counsel for the State does not dispute this submission made on behalf of the petitioners and he submits that petitioner in WPMS No. 961 of 2021 is mother of the present petitioners and the dispute in the said case also was regarding amount payable as lease rent / use and occupation charges.

4. The impugned order dated 10.01.2021 refers to some administrative order issued by Office of District Judge on 11.01.2021, and by relying upon such

administrative order, petitioners' arbitration application has been ordered to be transferred to Commercial Court, Dehradun. There is nothing to indicate that learned District Judge applied his judicial mind to relevant aspects which were required to be considered before transferring the case to Commercial Court. Learned District Judge has passed a non-speaking order, which does not contain any reason at all, therefore, on this score alone, it is liable to be set-aside.

5. Since identical question has been decided in aforesaid writ petition, therefore, present writ petition also deserves to be decided in terms of judgment dated 03.08.2021 rendered in WPMS No. 961 of 2021. Order accordingly.

6. Therefore, this writ petition is allowed and the impugned order dated 10.01.2021 passed by District Judge, Udham Singh Nagar is quashed. The matter is remitted back to learned District Judge, Udham Singh Nagar to reconsider the matter in the light of provisions contained in Commercial Courts Act, 2015 and pass appropriate order, within a period of three months. The Commercial Court, Dehradun shall return record of Case No. 26 of 2021 (earlier Arbitration Case No. 5 of 2006) to the Court of District Judge, Udham Singh Nagar within a period of two weeks' from the date of production of certified copy of this order.