
(2012) 06 KL CK 0265
In the High Court Of Kerala
Case No : Arbitration A. No. 25 of 2012

Raveendran K.V.

APPELLANT

Vs

Shriram Transport Finance Company Ltd. and Another

RESPONDENT

Date of Decision : 04-06-2012

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 17, 2, 2(1)(d), 2(1)(e), 37

Citation : (2013) 2 ARBLR 579 : (2012) 3 KLJ 409

Hon'ble Judges : Thottathil B. Radhakrishnan, J; K. Vinod Chandran, J

Bench : Division Bench

Advocate : K.C. Santhosh Kumar, K.K. Chandralekha and Anupama Johny, for the Appellant;

Final Decision : Dismissed

Judgement

Thottathil B. Radhakrishnan, J.—Heard appellant's learned counsel on the maintainability of this appeal filed to the High Court against an order of the arbitral tribunal granting an interim measure u/s 17 of the Arbitration and Conciliation Act, 1996. Section 37(2) of the Act provides an appeal against an order in the nature of the one impugned. That appeal lies to a "court". Section 2(1)(e) in Part I of that Act, which relates to arbitration, states that "court" means the principal civil court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject matter of the arbitration if the same had been the subject matter of a suit, but does not include any civil court of a grade inferior to such principal civil court, or any court of small causes. Learned counsel for the appellant submits that, notwithstanding such statutory definition, the term "court" in sub-section (2) of Section 37 would include the High Court in view of sub-section (1) of that section. This argument is plainly opposed to the clear jurisdictional dichotomy maintained between sub-sections (1) and (2) of Section 37. A plain reading of those sub-sections shows that an appeal provided under sub-section (1) is to the court authorised to hear appeals

from the original decrees of the court passing the order. Obviously, if the court passing the order is one whose decree is liable to be challenged before the High Court, that could be done. "Arbitral tribunal" means a sole arbitrator or a panel of arbitrators. [See Section 2(1)(d).] That tribunal is not a court. In all cases where the arbitral tribunal passes an order of interim measure u/s 17, jurisdiction to hear an appeal u/s 37(2) against that order is with "a court", meaning thereby, a court as defined u/s 2(1)(e). We do not see anything in the context to dissuade us from applying the statutory definition of the term "court" to Section 37(2), notwithstanding that Section 2, enumerating the definitions, opens prefixing--"unless the context otherwise requires". For these reasons, this appeal is not maintainable.

2. In the result, this appeal is dismissed in limine, without prejudice to the appellant's right, if any, to challenge the order of the arbitral tribunal before the appropriate court, in accordance with law.