
(2000) 04 SC CK 0113

In the Supreme Court Of India

Case No : Civil Appeal No. 1525 Of 1986 With Ia No. 5 Of 2000

Renuka Anantrai Vora (Smt) and Others

APPELLANT

Vs

Kirtikumar Fulchand Vora and Another

RESPONDENT

Date of Decision : 19-04-2000

Acts Referred:

Arbitration and Conciliation Act, 1996

Citation : AIR 2000 SC 2621 : (2000) AIRSCW 2755 : (2000) 2 LLJ 755 :
(2000) 4 SCALE 561 : (2000) 5 SCC 438 : (2000) 4 Supreme 703

Hon'ble Judges : M. B. Shah, J;A. P. Misra, J

Bench : Division Bench

Advocate : Mr V.N Ganpule

Final Decision : Disposed Of

Judgement

1. I.A. No. 4 for substituting legal representative for deceased respondent No. 2 is allowed.

2. This appeal is taking up along with I.A. No. 5. All the parties to this appeal have agreed to settle their dispute by referring the same for Arbitration. In pursuance to this agreement, the proposed term of reference is also filed before us today in substitution to the earlier Consent Terms. The parties have agreed for Hon'ble Mr. Justice (Retd.) S. P. Kurdukar be appointed as the sole Arbitrator.

3. It seems that the parties have earlier approached Hon'ble Mr. Justice S.P. Kurdukar for his consent. But there seems small reservation so far Hon'ble Mr. Justice S.P. Kurdukar which is revealed through his letter dated 24th February, 2000, which is annexed as Annexure-A2 to the application I.A. No. 5. The relevant portion is quoted hereunder :-

"However, Mr. vs. N. Ganpule told me that notwithstanding the fact that I was member of the Bench which passed the order dated 22nd August, 1997, all the parties still unanimously agree and confirm that they have "No Objection" whatsoever to appoint me as an Arbitrator and they will not raise any objection

whatsoever in this regard at any stage of the proceedings. I am writing these few lines with a view to make my position very clear.

I also wish that these facts may be brought to the notice of the Hon''ble Supreme Court to avoid any embarrassment. The Hon''ble Court may be requested to note these facts in its order."

4. The parties have reiterated even before us that they have no objection notwithstanding the said facts. Accordingly, we appoint Mr. Justice (Retd.) S.P. Kurdukar as the sole Arbitrator to adjudicate all, List of Disputes, which the parties have jointly filed today. The Arbitrator will preferably complete the arbitration proceedings within a period of six months from the date the parties communicate the present order before him. The Draft Minutes and the List of Disputes jointly filed today will be the part of this order.

5. In terms of this, the present Civil Appeal No. 1525 of 1986 along with I.A. No. 5 is disposed of. In view of this I.A. Nos. 2 and 3 have become infructuous and are dismissed as such. Costs on the parties.

Draft Minutes and List of Disputes

1. The parties hereto agree to submit the list of disputes mentioned hereunder to sole arbitrator Shri Justice (Retd.) S.P. Kurdukar, the retired Judge of Supreme Court under the provisions of Arbitration and Conciliation Act, 1996.

2. The Arbitration proceedings to be held in Mumbai.

3. The costs, expenses and fees of the Arbitrator shall be borne and paid by each party in equal proportion.

4. Each party is entitled to appoint her/his Advocate and shall bear his/her advocates''s fee separately.

5. The Award be declared within six months of reference made to the Arbitrator with order as to costs. However, the time be extended by mutual consent.

LIST OF DISPUTES

1. What are the properties left by the deceased Fulchand Vora at the time of his death i.e. July 29, 1979.

2. To determine all the issues involved in Suit No. 103/1998 pending in the Bombay High Court as well as in all other proceedings pending between Kantilal Fulchand Vora and parties hereto, including the Suit No. 240 of 1998 in respect of alleged properties of deceased Fulchand Vora pending in the Court of Civil Judge at Bhavnagar, filed by Kantilal against the parties hereto and others.

3. Whether Kantilal Fulchad''s claim, if any, in the properties is tenable and within time, and if so, to what extent is its value and how and in what manner the said properties be divided and/or its value be made and how the same be distributed amongst the heirs of the deceased.

4. Who, in terms of the Supreme Court's Order dated 09-02-2000, is entitled to the property of the deceased Respondent No. 2-Jaskorben Fulchand Vora.