

(2012) 07 KL CK 0231

In the High Court Of Kerala

Case No : Arbitration Appeal No. 31 of 2012 and C.M. Application No. 1290 of 2012

State of Kerala and The Superintending Engineer, Kallada
Irrigation Project

APPELLANT

Vs

G. Janardhanan Pillai

RESPONDENT

Date of Decision : 16-07-2012

Acts Referred:

Arbitration Act, 1940 — Section 17, 19
Limitation Act, 1963 — Section 5

Citation : (2012) 07 KL CK 0231

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

Bench : Division Bench

Advocate : C.S. Manilal, Sr Government Pleader and Smt. K.A. Sanjeetha,
Government Pleader, for the Appellant;

Final Decision : Dismissed

Judgement

Thottathil B. Radhakrishnan, J.—This appeal with an application seeking condonation of delay of 191 days is filed against a judgment by which the court below decided an application to pass a decree in terms of the award passed by an arbitrator on 2.8.1995. The application was filed under Sections 17 and 19 of the Arbitration Act, 1940. There was an interlocutory application by the State taking the stand that the award will not stand in view of the provisions of the Kerala Revocation of Arbitration Clauses and Re-opening of Awards Act, 1998. Having perused the impugned judgment rendered by the learned Principal Sub Judge, Kollam and the fact that the learned Judge has also gone into the correctness of the award to decide whether the award should be made Rule of the Court in view of the provisions of the 1940 Act, we also perused the contents of the arbitration award. It is a speaking award. The Arbitrator, a retired Superintending Engineer, dealt with the disputes arising out of the contract relating to formation of a minor distributory under an irrigation project. The quality of the consideration of the materials and the reasons stated by the

learned Arbitrator in the award finds full support from the materials referred to by him. At any rate, they cannot be treated as giving any ground to set aside the award in view of the provisions of the Arbitration Act, 1940. Equally, perusal of the impugned judgment also shows that the court below has considered different aspects of the matter and the court below also has come to the firm view that a decree has to be passed in terms of the award. We do not find any legal infirmity or jurisdictional error in the judgment of the learned Sub Judge.

2. Notwithstanding the above, we may indicate that the affidavit filed in support of the application seeking condonation of delay of 191 days does not give any reason which can be treated as sufficient cause for condonation of delay in terms of Section 5 of the Limitation Act. The same also does not deserve to be entertained. For the aforesaid reasons, the C.M. Application and the Arbitration Appeal are dismissed in limine.