

(2019) 09 RAJ CK 0157

In the Rajasthan High Court

Case No : Civil Writ Petition No. 11788 Of 2019

State Of Rajasthan And Ors

APPELLANT

Vs

Manmeet Singh And Ors

RESPONDENT

Date of Decision : 17-09-2019

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 2(1)(e), 34
Rajasthan Civil Courts Ordinance, 1950 — Section 10

Citation : (2019) 09 RAJ CK 0157

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : L.K. Purohit

Final Decision : Dismissed

Judgement

The present writ petition is directed against the order dated 31.05.2018, passed by learned Additional District Judge No.1, Sriganganagar (hereinafter referred to as "the Trial Court").

Narrated briefly, the facts of the case are that the respondent No.1 Manmeet Singh filed an application under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "the Act of 1996") for setting aside an award dated 05.10.2016, passed by the Arbitrator.

Petitioner No.2 - Project Director-Cum-Superintending Engineer, Bikaner Circle, PWD, Office, Bikaner filed an application/objection that the Court of Additional District Judge does not have jurisdiction to entertain and decide the application under Section 34 of the Act of 1996 and such powers vest in the District Judge.

Petitioner's such application was rejected by the Court below vide order impugned dated 31.05.2018.

Mr. L.K. Purohit, learned counsel for the petitioners submitted that the impugned order passed by the learned Trial Court is not in conformity with the law,

inasmuch as, provisions of Section 34 of the Act of 1996 uses expression 'Court' and the 'Court' as defined in Section 2(1) (e) of the Act of 1996, means "the Principal Civil Court of original jurisdiction in a District", which should be taken to be a 'District Court' and the application under Section 34 of the Act, thus, could neither be transferred to Additional District Judge nor can the same be decided by him.

I have heard learned counsel for the petitioners.

In considered opinion of this Court, the Court of Additional District Judge cannot be considered as a Court of a grade inferior to that of District Judge. The position of law is well settled.

This Court in Hindustan Copper Ltd. Vs. Mr. Bhagwati Gases Ltd. reported in RLW 2005 (3) Raj. 2199, has held as under:

"I have perused the judgments referred before by the parties as well as the provisions of Act of 1996, Ordinance of 1950 and General Clauses Act, 1897. Upon thorough consideration of the material available on record, it reveals that the State Government issued a notification on 21.5.1993 on the recommendation of the High Court whereby the Additional District Judge at Khetri was appointed as District Judge. As such the Additional District Judge is having the jurisdiction to discharge the functions as District Judge. As per Section 10 of the Ordinance of 1950, the Additional District Judge is fully empowered to exercise the powers as the District Judge had as held by this Court in case of Sarojani Devi (supra)."

I do not find any substance in the present writ petition, for which, it is dismissed.

Stay petition also stands disposed of.