

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 21779-21780 OF 2017
(Arising out of SLP(C) No. 20401-20402 of 2017)

M/S. HARISH CHANDRA AND COMPANY ... Appellant(s)

Versus

THE STATE OF UTTAR PRADESH ... Respondent(s)

O R D E R

Leave granted.

The present matters have a somewhat chequered history, in that the award of the Arbitrator dated 11.07.1987 was challenged under the Arbitration Act, 1940 which challenge was rejected by the Civil Judge, Dehradun by judgment dated 21.12.1987.

In a special leave petition filed before this Court from the High Court judgment dated 14.08.2007, this Court by its Order dated 08.09.2016 recorded that the SLP stood dismissed as withdrawn so that the aggrieved party can go in review and could also come back, in case it was necessary, to this Court against the judgment dated 14.08.2007.

The review filed pursuant to this order was dismissed on 22.06.2017. Going through the judgment dated 14.08.2007, it is clear that there are several

factual errors apparent in the said judgment. First and foremost, what was granted allegedly under clause 7.09 was not for excavation or removal of rocks but for transportation as recorded in the award. Secondly, a fresh finding was recorded for the first time in a second appeal that delay was on account of the contractor. It is well-settled that the Court does not act as a Court of appeal but can only interfere according to the well laid parameters of judicial review of arbitration awards. It is obvious that the judgment has gone way beyond these parameters.

Accordingly, we set-aside the judgment dated 14.08.2007 together with 22.06.2017 in review.

The appeals are allowed in the aforesaid terms.

.....J.
(ROHINTON FALI NARIMAN)

.....J.
(NAVIN SINHA)

New Delhi,
Dated: 11th December, 2017.

ITEM NO.8

COURT NO.12

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).
20401-20402/2017

(Arising out of impugned final judgment and order dated 22-06-2017
in AFO No. 257/2003 14-08-2007 in AO No. 257/2003 passed by the
High Court Of Uttarakhand At Nainital)

M/S. HARISH CHANDRA AND COMPANY

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

(IA No.62958/2017-CONDONATION OF DELAY IN FILING and IA
No.62961/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 11-12-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s) Mr. Vijay Hansaria, Sr. Adv.
Mr. Brij Bhushan, AOR
MR.Avanish Pandey, Adv.

For Respondent(s) Mr. Ajay Kumar Mishra, Sr. Adv.
Mrs. Rachna Gupta, AOR
Mr. Gaurav Srivastav, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are allowed in terms of the signed order.

Pending applications, if any, shall stand disposed of.

(SHASHI SAREEN)
AR CUM PS

(SAROJ KUMARI GAUR)
BRANCH OFFICER

(Signed order is placed on the file)

