

IN THE SUPREME COURT OF INDIA
EXTRA ORDINARY APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO.16796-97 of 2021

Andhra Pradesh Education and Welfare Infrastructure
Development Corporation (APEWIDC) ...Petitioner

Versus

M/s Mape Connoisseurs (Milind Architectural Interiors
and Pankaj Engineering Connoisseurs) ...Respondent

ORDER

M. R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 30.07.2021 passed in I.A. No.1 of 2021 in Arbitration Application No.41 of 2020 and order dated 11.08.2020 passed by the High Court of Telangana in Arbitration Application No.41 of 2020 the original applicant – Andhra Pradesh Education and Welfare Infrastructure Development Corporation has preferred the present Special Leave Petitions.

2. The petitioner is an enterprise of the Government of Andhra Pradesh. The respondent herein entered into an agreement dated 23.06.2012 for the design and development of infrastructure for the construction of a Sainik School at Kalikiri (V & M), Chittoor District. An agreement dated 23.06.2012 was entered into between the petitioner and the respondent which contained the arbitration clause as under:

“The agreement shall be interpreted, construed and governed by the laws of India. In case of any dispute, the Courts at Hyderabad will have exclusive jurisdiction. In case of dispute are (sic or) difference arising between the Corporation and Contractor relating to any matter arising out of or connected with this agreement, such disputes or difference shall be settled in accordance with the Arbitration and Conciliation Act, 1996”

3. A dispute arose between the parties and therefore in terms of the arbitration clause respondent herein invokes the arbitration and filed the Arbitration Application under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as, ‘the Act, 1996’) before the High Court of Telangana seeking for appointment of an arbitrator. The Arbitration Application was allowed having found that there exists a dispute between the parties and that there was an invocation of the arbitration clause in the Agreement dated 23.06.2012. That thereafter the respondent filed a Claim Petition before the learned Arbitral Tribunal constituted vide order dated 11.08.2020 passed by the High Court of Telangana. The petitioner appeared before the learned Arbitral Tribunal and sought an adjournment on the ground that the review application has been preferred against order dated 11.08.2020 before the High Court. The petitioner filed I.A. No.1 of 2021 in the Arbitration Application No. 41 of 2020 before the High Court and the order dated 11.08.2020 passed in Arbitration Application No.41 of 2020 was sought to be recalled on the ground that in view of Sections 3, 4, 30, 31, 32, 33, 40 and 60 of the Andhra Pradesh Reorganization Act, 2014 the High Court of Telangana and the court at Hyderabad lack jurisdiction. It was contended that even though the party

had executed an Agreement dated 23.06.2012 agreeing that the courts at Hyderabad shall have exclusive jurisdiction, the Hyderabad is subsequently in the combined State of Andhra Pradesh. However, thereafter the place where the respondent – original applicant undertook the work by virtue of the agreement falls within the residuary district (Chittoor District) of the State of Andhra Pradesh and therefore, in view of Section 60 of 2014 Act, it is deemed to have been executed in the domain of a residuary district (Chittoor District), the 2014 Act has an overriding effect on the Act 1996 and therefore, the High Court of Telangana and the courts at Hyderabad lack jurisdiction to entertain the arbitration application and therefore, the order passed by the High Court of State of Telangana – Hyderabad is liable to be recalled as after the Reorganization Act, 2014, the High Court of Andhra Pradesh alone shall have jurisdiction to entertain the arbitration application. By the impugned judgment and order the High Court has negated the contention raised on behalf of the petitioner that despite the Agreement dated 23.06.2012, the courts at Hyderabad alone shall have exclusive jurisdiction in view of the Reorganization Act, 2014 the (Chittoor District) where the respondent – original applicant undertook the work falls within the State of Andhra Pradesh and therefore, only the High Court of Andhra Pradesh alone would have jurisdiction to entertain the arbitration application. Consequently, the High Court has dismissed the I.A. and refused to recall order dated 11.08.2020 passed in Arbitration Application No.41 of 2020.

4. We have heard Mr. Mahfooz Ahsan Nazki, learned Advocate appearing on behalf of the petitioner. It is submitted that the issue involved in the present application shall have a wide implication on the other pending arbitration matters having the similar arbitration clause. It is submitted that as per the Reorganization Act, 2014, District Chittoor where the respondent – original applicant undertook the work by virtue of the agreement dated 23.06.2012 falls within the State of Andhra Pradesh and therefore, the High Court of Andhra Pradesh alone would have jurisdiction to entertain the arbitration application. It is not disputed that in the Agreement dated 23.06.2012 and as agreed between the parties the courts at Hyderabad will have exclusive jurisdiction.

5. Having heard learned counsel appearing on behalf of the petitioner and considering the arbitration clause in the Agreement dated 23.06.2012, it is not in dispute and cannot be disputed that the parties to the agreement have chosen that the courts at Hyderabad will have the exclusive jurisdiction. Despite the fact that the work was undertaken within the Chittoor District, the parties agreed that the courts at Hyderabad will have the exclusive jurisdiction. It makes no difference whether the Hyderabad falls within the State of Andhra Pradesh or the State of Telangana. As observed and held by this Court in catena of decisions once the seat of arbitration is designated or determined, the same falls under exclusive jurisdiction clause as a result of which only the courts where the seat is located would have jurisdiction over

the arbitration to the exclusion of all other courts, even where no part of cause of action may have arisen. **(See BGS SGS Soma JV v. NHPC, (2020) 4 SCC 234).**

Even as per Section 20 of the Arbitration Act where the place of Arbitration is in India, the parties are free to agree to any 'place' or 'seat' within India, be it Hyderabad, Chittoor, Delhi, Mumbai, etc. Only in absence of the parties' agreement thereto, Section 20(2) authorises the tribunal to determine the place/seat of such arbitration. However, once the parties to the agreement agreed to any 'place' or 'seat' within India only that court as agreed between the parties would have exclusive jurisdiction. In the present case as per arbitration clause and as agreed between the parties the courts at Hyderabad will have exclusive jurisdiction. Therefore, the High Court within whose jurisdiction the Hyderabad falls shall have the jurisdiction to entertain the arbitration application. Subsequent enactment of Reorganization Act, 2014 will have no effect at all on the exclusive jurisdiction conferred in the arbitration clause in the Agreement dated 23.06.2012. Even after the Reorganization Act, 2014 irrespective of the fact whether Chittoor District where the work was undertaken falls within the State of Andhra Pradesh or State of Telangana, the parties would be at liberty to choose any other place other than Chittoor where the work was undertaken namely Hyderabad, Delhi and Mumbai etc. and as per Section 20 of the Arbitration Act, the same is permissible.

Under the above circumstances, the High Court of Telangana has rightly refused to recall order dated 11.08.2020 passed in the Arbitration Application No.41 of 2020 allowing the arbitration application and appointing the arbitrator. We are in complete agreement with the view taken by the High Court.

In view of the above and for the reasons stated hereinabove, there is no substance in the present petitions and the same deserve to be dismissed and is accordingly dismissed.

.....J.
[M. R. Shah]

.....J.
[B.V. NAGARATHNA]

New Delhi,
November 13, 2021.

ITEM NO.6/1 Court 13 (Video Conferencing) SECTION XII-A

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). 16796-16797/2021

(Arising out of impugned final judgment and order dated 30-07-2021 in IA No. 1/2021 11-08-2020 in ARBA No. 41/2020 passed by the High Court For The State Of Telangana At Hyderabad)

ANDHRA PRADESH EDUCATION AND WELFARE INFRASTRUCTURE DEVELOPMENT CORPORATION (APEWIDC) Petitioner

VERSUS

M/S MAPE CONNOISSEURS (MILIND ARCHITECTURAL INTERIORS AND PANKAJ ENGINEERING CONNOISSEURS) Respondent

(FOR ADMISSION and I.R. and IA No.136736/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 13-11-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Mahfooz Ahsan Nazki, AOR
 Mr. G.V.K. Kishore Kumar, Adv.
 Mr. Polanki Gowtham, Adv.

For Respondent(s)

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

The Special Leave Petitions are dismissed in terms of the signed order.

Pending applications shall stand disposed of.

(ARUSHI SUNEJA)
SENIOR PERSONAL ASSISTANT

(NISHA TRIPATHI)
BRANCH OFFICER

(signed order is placed on the file)

ITEM NO.6 Court 13 (Video Conferencing) SECTION XII-A

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). 16796-16797/2021

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For Petitioner(s) Mr. Mahfooz Ahsan Nazki, AOR
 Mr. G.V.K. Kishore Kumar, Adv.
 Mr. Polanki Gowtham, Adv.

For Respondent(s)

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

Heard Mr. Mahfooz Ahsan Nazki, learned Advocate on Record appearing for the petitioners. Considering the facts and circumstances of the case, the present Special Leave Petitions are dismissed.

Reasoned order to follow.

(ARUSHI SUNEJA)
SENIOR PERSONAL ASSISTANT

(NISHA TRIPATHI)
BRANCH OFFICER