

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 18375 OF 2017
(Arising out of SLP(C) No. 11114 of 2009)

UNION OF INDIA ... Appellant(s)

Versus

M/S. AMBICA CONSTRUCTION ... Respondent(s)

With

Civil Appeal No. 18376 of 2017 @ SLP(C) No. 17219 of 2009

O R D E R

Civil Appeal No.18375 of 2017 @ SLP(C) No.11114 of 2009:

Leave granted.

These two appeals have been filed against the impugned judgment dated 31.03.2008 of the Division Bench of the High Court of Calcutta. An appeal filed by the Union of India (SLP(C) No. 11114 of 2009) is limited to *pendente lite* interest that has been granted by the Arbitrator and upheld by both the courts. We find that a coordinate Bench of this Court by a judgment dated 16.03.2016 has decided that clause 16(2) of the agreement between the parties, which is an identical clause referred to in the aforesaid judgment, has been construed by this Court as having no bar to the award of

pendente lite interest.

In this view of the matter, the appeal stands dismissed.

Civil Appeal No. 18376 of 2017 @ SLP(C) No. 17219 of 2009:

Insofar as the appeal of Ambica construction (SLP(C) No. 17219 of 2009) is concerned, we find that the learned Single Judge had dismissed all objections against the award. However, the Division Bench construed Clauses 17(2) and (3) of the agreement, as if it were sitting as an Appellate Court, and based upon such construction disallowed claims 6 and 7.

In our judgment, the Arbitrator has considered these clauses, and this being a possible construction, it could not have been interfered with.

Therefore, the appeal stands allowed and the judgment of the High Court is set-aside.

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

.....J.
(SANJAY KISHAN KAUL)

New Delhi,
Dated: 9th November, 2017.

ITEM NO.11

COURT NO.12

SECTION XVI

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). 11114/2009

(Arising out of impugned final judgment and order dated 31-03-2008 in APO No. 5/2008 passed by the High Court At Calcutta)

UNION OF INDIA

Petitioner(s)

VERSUS

M/S AMBIKA CONSTRUCION

Respondent(s)

WITH

SLP(C) No. 17219/2009 (XVI)

Date : 09-11-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

For Petitioner(s) Mr. Raj Kumar Mehta, AOR
Ms. Himanshi Andley, Adv.

Mr. A.K.Panda, Sr. Adv.
Mr. Ajay Singh, Adv.
Ms. Kiran Bhardwaj, Adv.
Ms. Anil Katiyar, Adv.
Mr. Raj Bahadur, Adv.
Ms. Sushma Suri, AOR

For Respondent(s) Mr. Arvind Kumar Sharma, AOR

Mr. Raj Kumar Mehta, AOR
Ms. Himanshi Andley, Adv.

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

SLP(C) No. 11114 of 2009:

Leave granted.

The appeal is dismissed in terms of the signed order.

SLP(C) No. 17219 of 2009:

Leave granted.

The appeal is allowed in terms of the signed order.

(SHASHI SAREEN)

AR CUM PS

(Signed order is placed on the file)

(SNEH LATA SHARMA)

BRANCH OFFICER