

ITEM NO.21

COURT NO.11

SECTION XI-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). 27625/2019

(Arising out of impugned final judgment and order dated 13-09-2019 in ARBA No. 21/2007 passed by the High Court Of Orissa At Cuttack)

BABAJI NAYAK

PETITIONER(S)

VERSUS

RITES LTD.

RESPONDENT(S)

Date : 23-08-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MR. JUSTICE ABHAY S. OKA

For Petitioner(s) Mr. Gaurav Agrawal, Adv.
Mr. Abhikalp Pratap Singh, AOR
Ms. Aagam Kaur, Adv.
Ms. Aadya Yadav, Adv.
Ms. Shreya Saxena, Adv.

For Respondent(s) Mr. Abimanyu Garg, Adv.
Mr. Aman Gupta, AOR

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

The present petition is directed against the order dated 13.09.2019 dismissing the appeal preferred by the petitioner under Section 37 of the Arbitration and Conciliation Act, 1996 (for short 'the 1996 Act') questioning the award passed by the District Judge in exercise of power under Section 34 of the Act dated 26.07.2007.

It reveals from the order impugned dated 13.09.2019 that the

High Court has not looked into the appeal preferred at the instance of the petitioner on merits and dismissed on the premise that the petitioner had accepted a sum of Rs.13,43,016/- in terms of the award passed by the District Judge dated 26.07.2007 and since it was accepted by the petitioner without any protest, they have no right to continue with the proceedings initiated under Section 37 of the Act.

It is also brought to our notice that the respondent has also filed cross objections and that too have been disposed of under the order impugned dated 13.09.2019.

With the assistance of the learned Counsel for the parties, we have looked into the money receipt dated 03.11.2007 which is on record (page 162), it nowhere indicates that it was accepted by the petitioner towards full and final settlement in terms of the award rather it is a money receipt signed by the petitioner and there is no other document filed by either party which may disclose that money has been accepted by the petitioner either under protest or for full and final settlement in terms of the award passed by the District Judge dated 26.07.2007.

After we have heard the learned Counsel for the parties, in our considered view, the judgment passed by the High Court impugned dated 13.09.2019 is not sustainable in law and deserves to be set aside.

We accordingly restore the appeal (ARBA No. 21 of 2007) preferred at the instance of the petitioner on the file of the High Court of Orissa. The cross objections filed by the respondent also stand restored. The High Court may decide the pending appeal

including cross objections independently on its own merits without being influenced by the observations made as expeditiously as possible in accordance with law but in no case later than six months from the date of receipt of this order.

Let the parties may record their appearance before the Registrar of the High Court of Orissa on 12.09.2022.

The Special Leave Petition stands disposed of in the above terms.

Pending application(s), if any, shall also stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)

(MONIKA DEY)
COURT MASTER (NSH)