

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2093/2022
(arising out of SLP [C] NO.19496/2021]

GUJARAT HOUSING BOARD & ANR.

Appellant(s)

VERSUS

VANDEMATARAM PROJECTS PRIVATE LIMITED

Respondent(s)

O R D E R

Leave granted.

We have heard learned counsel for parties.

We are of the view that the invocation of Article 226 of the Constitution of India for a contractual matter of this nature, where there was an existing arbitration clause was not the appropriate remedy nor could the High Court have examined this and granted the nature of relief which has been done by the impugned order dated 30.09.2021. We are unable to persuade ourselves on the submission of learned counsel for the respondent that the order passed by the High Court was akin to a consent order. It does not say so, we do not find it from the order. The High Court did make an endeavour to see that the parties sit together and negotiate a settlement which did not happen.

Learned counsel for the respondent states that in the interregnum, on account of the stay of the operation of the impugned order, the appellants have also encashed the bank guarantee. He seeks the restoration of the amount encashed qua bank guarantee. We are not inclined to accept the plea of the learned counsel for the respondent in the present case but do believe that if the respondent had invoked or invokes the process under the Arbitration Act, that is an aspect which can be examined by the Arbitral Tribunal to be constituted in accordance with law. We thus, set aside the impugned order dated 30.09.2021 and relegate the parties to the remedy under the Arbitration Act with the aforesaid liberty to the respondent.

At this stage, learned counsel for parties state that they are agreeable that this Court should appoint an Arbitrator. Learned counsel for the parties also agree that looking to the limited nature of dispute, a single Arbitrator can be appointed. We appoint Hon'ble Ms. Justice Harsha Devani, Retired Judge of the Gujarat High Court, 33, Neetibaug Judges Cooperative Housing Society, Opposite Gujarat High Court, Off SG High Way, Ghatlodiya, Ahmadabad, 380061 as the sole Arbitrator to enter upon reference and adjudicate the dispute inter se the parties.

We have already given liberty to the respondent to move for any interim relief before the Arbitrator so appointed.

All pleas as available in law are open to the parties.
The appeal stands disposed of in the aforesaid terms.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[M.M. SUNDRESH]

NEW DELHI;
MARCH 21, 2022.

ITEM NO.3 Court 6 (Video Conferencing) SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 19496/2021

(Arising out of impugned final judgment and order dated 30-09-2021 in SCA No. 8541/2021 passed by the High Court Of Gujarat At Ahmedabad)

GUJARAT HOUSING BOARD & ANR. Petitioner(s)

VERSUS

VANDEMATARAM PROJECTS PRIVATE LIMITED Respondent(s)

(FOR ADMISSION and I.R
IA No. 29296/2022 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 21-03-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mr. Gopal Sankaranaryanan, Sr. Adv.
Mr. Jatin Zaveri, AOR
Mr. Neel kamal Mishra, Adv.
Ms. Aditi Gupta, Adv.
Mr. D.S. Mishra, Adv.

For Respondent(s) Mr. Anshin Desai, Sr. Adv.
Mr. D.N. Ray, Adv.
Mr. Shreenil Shah, Adv.
Ms. Disha Ray, Adv.
Mrs. Sumita Ray, AOR

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

Leave granted.

The appeal stands disposed of in terms of the signed order.

Pending application stands disposed of.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)

[Signed order is placed on the file]