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Court : Karnataka Dharwad

Decided On : Aug-29-2012

Judge : H.G. Ramesh

Appeal No. : Writ Petition Nos. 63881 & 63913-915 of 2012 (GM-RES)

Appellant : T. Younis

Respondent : National Highways Authority of India, Project Implementation Unit and Others

Judgement :

(Prayer: These writ petitions are filed under Articles 226 and 227 of the Constitution of India praying to quash the order passed by the 2nd respondent-authority- arbitrator order dated 17/05/2012 in proceedings vide Annexure-c, in respect of petitioner these writ petitions coming on for preliminary hearing in 'b' group, this day, the court made the following order.)

H.G. Ramesh, J. (Oral):

These writ petitions are directed against the order dated 17.05.2012 (Annexure-C) passed by respondent no.2 - Arbitrator holding that the application filed by respondent no.1-National Highways Authority of India under Section 3G(5) of the National Highways Act, 1956 ('the Highways Act') is not barred by limitation.

2. I have heard the learned counsel for the parties and perused the impugned order at Annexure-C.

3. Sub-section (6) of Section 3G of the Highways Act states that subject to the provisions of the Highways Act, the provisions of the Arbitration and Conciliation Act, 1996 ('the Arbitration Act') shall apply to every arbitration under the Highways Act. Section 43 of the Arbitration Act states that the Limitation Act, 1963 ('the Limitation Act') shall apply to arbitrations as it applies to proceedings in Court. In effect, the Limitation Act will apply to a proceeding under Section 3G(5) of the Highways Act. In my opinion, as no specific period of limitation is provided for filing an application under Section 3G(5) of the Highways Act, Article 137 of the Limitation Act applies and accordingly the application will have to be filed within three years from the date when the right to apply accrues to the applicant. In the present case, the application was filed by respondent no.1 within about four months from the date of determination of the compensation by the Competent Authority under sub-section (1) of Section 3G of the Highways Act. Accordingly, the impugned order passed by respondent no.2-Arbitrator holding that the application filed by respondent no.1 under Section 3G(5) of the Highways Act was within the period of limitation is correct in law and does not call for any interference. The writ petitions are devoid of merit and are accordingly dismissed. In view of dismissal of the writ petitions, I.A.I/2012 filed for vacating of the interim order does not survive for consideration; it stands disposed of accordingly.

Petitions dismissed.

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