



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22-07-2026

PRONOUNCED ON : 21.08.2026

CORAM

THE HON'BLE MR JUSTICE P. VELMURUGAN

AND

THE HON'BLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

OSA No. 29 of 2021

AND

CMP NO. 727 OF 2021,CMP NO. 6029 OF 2022

The Secretary to Government,
Government of Tamil Nadu,
Fort St.George, Chennai 600 009.
Rep.by Superintending Engineer (H),
Project II Circle 2977, Elanga Complex,
Neethi Nagar, Court Road,
Thanjavur 613 001.

..Appellant

Vs

1. M/s.SPL Infrastructure Private Limited,
(formerly S.P. Lakshmanan),
No.24 (old No.13/3) First Floor,
Crescent Part Street, T. Nagar,
Chennai 600 017.
2. M. Rajagopal B.E.,
Chief Engineer (H), Retired,
3/269, Karimani Street, IIIrd Cross St,
Indian Bank Colony, Narayanapuram,
Madurai 625 014.
3. A. Syed Abuthahir S.E., (Retired)
38, Highways Colony, Subramaniapuram,
Thiruchirapalli 620 020.



4. P. Sridharan C.E., (H) Retired
Plot No.50, U.R. Nagar Extension,
Anna Nagar West Extension, Chennai 600 101

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..Respondents

Prayer: Original Side Appeal filed under Order XXXVI Rule 1 of O.S. Rules read with clause 15 of Letters Patent, praying to set aside the Judgment and Decree dated 17.10.2019 dismissing O.P No.431 of 2010 on the file of the Original Side of this Court.

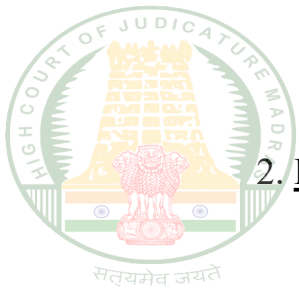
For Appellant: Mr. P.V. Balasubramaniam
Additional Advocate General
Assisted by Mr. M. Hemanth Kumar,
Government Counsel

For Respondents: Mr. R. Saravana Kumar for R1

Judgment

(Judgment of the Court was delivered by K.Govindarajan Thilakavadi J.)

This Original Side Appeal is filed under Section 37 of the Arbitration and Conciliation Act, 1996, (in short “A&C Act, 1996) challenging the order dated 17.10.2019 passed by the learned Single Judge in O.P. No. 431 of 2010, whereby the petition filed by the appellant under Section 34 of the A&C Act, 1996, was partly allowed.



2. Facts:

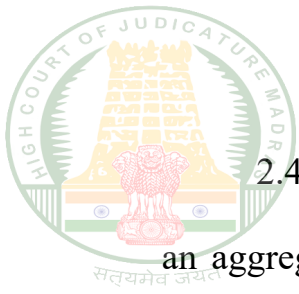
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2.1. The appellant awarded to the respondent a turnkey contract for design and construction / reconstruction of 5 bridges in Pudukottai District under package X. The Letter of Acceptance was issued on 23.02.1999 and the agreement was executed on 15.03.1999 for a total contract value of Rs.8,18,60,000/-.

2.2. Dispute arose between the parties during the execution of the contract and the same were referred to Arbitration in accordance with the Arbitration Clause contained in the General Conditions of Contract. The respondent raised claims under various heads, including escalation in the cost of materials and labour, overhead charges, loss of profits, refund of liquidated damages and additional expenses relating to design, earthwork and widening of approaches.

2.3. The claim related to 5 bridges, namely:

- (1) Bridge at Km 30/10 of Pudupatti - Nedungadi Road;
- (2) Bridge at Km 135/8 of Perambalur – Manamadurai Road;
- (3) Bridge at Km 25/8 of Aranthangi – Kattumavadi Road;
- (4) Bridge at Km 112/2 of Perambalur – Manamadurai Road; and
- (5) Bridge at Km 4/10 of Pudukottai – Embal Road.

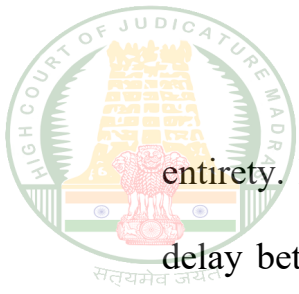


2.4. By Award dated 20.12.2008, the learned Arbitral Tribunal awarded an aggregate sum of Rs.84,48,156/- in favour of the first respondent together with interest at 12% per annum from the date of the award until payment. Aggrieved by the Award, the appellant invoked Section 34 of the Arbitration Act.

2.5. The learned Single Judge, by order dated 17.10.2019, partly interfered with the award. The challenge was accepted to a limited extent in relation to the First, Second and Third bridges, principally on the question of attribution of delay and the consequent calculation of escalation, overheads and interest. However, the challenge was rejected in respect of the Fourth and Fifth bridges. The learned Single Judge also directed that the amounts payable in respect of the First, Second and Third bridges be reworked in accordance with the findings recorded in the order and permitted the first respondent to take appropriate proceedings for crystallisation and recovery of the amounts payable under the award as modified by the order.

2.6. Aggrieved by the said order, the present appeal has been filed under Section 37 of the A&C Act, 1996 by the appellant.

2.7. The learned Additional Advocate General appearing for the appellant contended that the learned Single Judge ought to have set aside the award in its



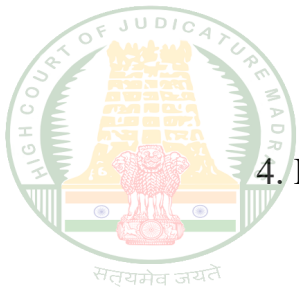
entirety. It was argued that the Arbitral Tribunal had wrongly apportioned the delay between the parties and had failed to appreciate that the initial delay in

submission of designs and drawings were attributable to the first respondent.

According to the appellant, such initial delay had a cascading effect upon the subsequent activities and, therefore, the first respondent could not claim escalation and overheads for the extended period.

2.8. It was further contended that the contract contained the clauses prohibiting payment of escalation during the extended period and that the learned Arbitral Tribunal had ignored the contractual provisions. It was also argued that the award of overheads was unsupported by adequate evidence and that the Tribunal had erred in applying the Hudson formula.

3. Per contra, Mr. R. Saravana Kumar, the learned counsel for the 1st respondent would submit that the learned Single Judge had already substantially considered the objections raised by the Government and had interfered with the award wherever a patent error was found. According to the learned counsel for the 1st respondent, the findings of the Arbitral Tribunal were findings of fact based upon the contractual documents and evidence and could not be re-appreciated in a Section 37 appeal as if this Court were sitting in a first appeal over the Arbitral Award.



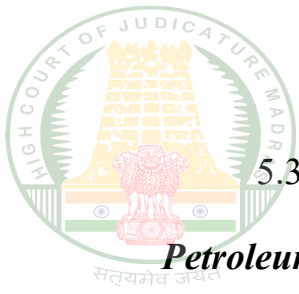
4. Heard on both sides. Records perused.

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5. The scope of interference under Section 37 of the A&C Act, 1996, is narrower than the jurisdiction exercised by the Civil Appellate Court in a First Appeal. A Section 37 Court does not ordinarily undertake a fresh re appreciation of evidence merely because another view is possible. The Hon'ble Supreme Court has repeatedly emphasised that the jurisdiction under Sections 34 and 37 is supervisory and not appellate in the traditional sense.

5.1. In *MMTC Limited vs. Vedanta Limited, (2019) 4 SCC 163*, the Hon'ble Supreme Court held that the Court dealing with a challenge to an Arbitral Award does not sit in appeal over the findings of the Arbitrator and that interference is permissible only within the narrow parameters prescribed by Section 34.

5.2. The principle has subsequently been reiterated in *UHL Power Company Limited vs. State of Himachal Pradesh, (2022) 4 SCC 116*, wherein the Hon'ble Supreme Court cautioned that Courts exercising jurisdiction under Sections 34 and 37 of A&C Act, 1996, cannot substitute their own view for that of the Arbitral Tribunal merely because another view is possible.

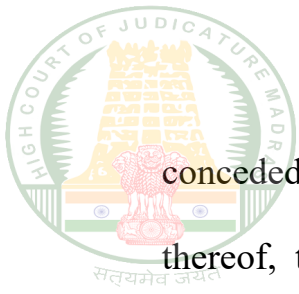


5.3. More recently, in *Indian Oil Corporation Limited vs. Shree Ganesh Petroleum Rajguru nagar*, (2022) 4 SCC 751, the Hon'ble Supreme Court reiterated that the contractual interpretation adopted by an Arbitral Tribunal ought not to be interfered with unless it is patently unreasonable or falls within the statutory grounds for interference.

5.4. Now it has to be seen whether the learned Single Judge was justified in interfering with the finding regarding delay. The principle dispute concerns the First, Second and Third bridges. The contract contemplated submission of detailed designs and drawings by the contractor, followed by scrutiny and approval by the Engineer / Project Management Consultant and thereafter commencement of foundation work.

5.5. The learned Single Judge examined the contractual sequence and concluded that these were sequential activities and that the approval of the drawings was a condition precedent for commencement of the subsequent foundation work. We find no error in the approach adopted by the learned Single Judge.

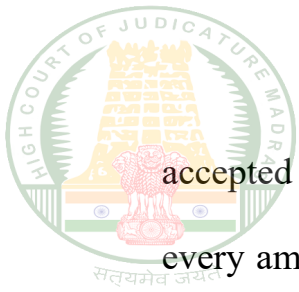
5.6. The fact that the contractor had some initial delay in submitting the designs does not, by itself, established that all subsequent delay must necessarily be attributed to the contractor. Once the Arbitral Tribunal had



conceded the respective period of delay and recording findings as to the causes thereof, the question before the Section 34 Court was not whether another apportionment was possible, but whether the conclusion of the Tribunal was so perverse or unreasonable as to fall within the limited grounds of Section 34. The learned Single Judge, after considering the contractual provisions, interfered only to the extent warranted and did not undertake an unrestricted re-appreciation of evidence.

5.7. The appellant strongly relied upon the clauses of the contract relating to price variation and escalation. However, the contractual provisions had to be read harmoniously. The learned Single Judge found that the contract did not impose an absolute prohibition against escalation in every circumstance during an extended period. The relevant clauses contemplated a distinction between delay attributable to the contractor and delay attributable to the appellant. Once such finding is accepted, the claim for escalation for the period attributable to the appellant cannot be rejected merely on the ground that the contract period had expired. The learned Single Judge accordingly directed that the escalation claim be confined to the period of delay attributable to the appellant. We find this approach to be legally sustainable.

5.8. The appellant next contended that the award of overheads was contrary to law and unsupported by evidence. This contention cannot be

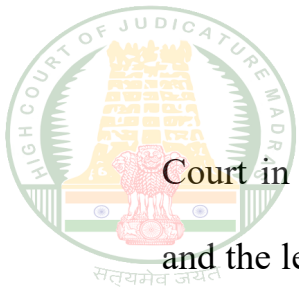


accepted in its entirety. The learned Single Judge did not mechanically approve every amount awarded under the head of overheads. The learned Single Judge examined the basis upon which the Arbitral Tribunal had granted the claim and interfered only to the extent that the calculation was consequential upon the erroneous period of delay.

5.9. The Hon'ble Supreme Court in *McDermott International Inc. vs. Burn Standard Company Limited, 2006 (11) SCC 181*, has explained that interpretation of contractual terms is primarily within the domain of the Arbitral Tribunal and that the Court should not substitute its own interpretation merely because another interpretation is possible.

5.10. An important circumstance is that the grounds which were sufficient to warrant limited interference in relation to the First, Second and Third bridges were not established in relation to the Fourth and Fifth bridges. The learned Single Judge therefore rejected the challenge to the award concerning the Fourth and Fifth bridges. We find no infirmity in this approach.

5.11. An Arbitral Award may, depending upon the nature of the claims and the separability of the components, be interfered with only to the extent legally sustainable, without necessarily setting aside the entire award. The principle of severability was recognised by the Full Bench of the Bombay High



Court in *R.S. Jiwani vs. Ircon International Limtied, (2010) 1 Bom CR 529*

and the learned Single Judge correctly applied the principle having regard to the fact that the claims pertaining to individual bridges were capable of separate consideration.

5.12. The Award granted interest at 12% per annum from the date of the award. The learned Single Judge found that such rate did not warrant interference under Section 34 of the A&C Act, 1996. We find no reason to disagree. The power to award post award interest is governed by Section 31 (7) (b) of the A&C Act, 1996, subject to the terms of the contract and the statutory frame work applicable to the Arbitration. The rate of 12% per annum cannot, in the facts of the present case, be characterised as so exorbitant or unconscionable as to warrant interference under Section 37 of the A&C Act, 1996..

5.13. We are also conscious of the fact that the Arbitral Award in the present case was rendered in 2008 and the proceedings have continued for several years thereafter. The object of the Arbitration Act is to ensure finality to Arbitral adjudication and to restrict judicial interference. If the view of the appellant were accepted, this Court would effectively be called upon to re-appreciate the entire evidence, recalculate delay and substitute its own assessment of that of the Arbitral Tribunal. Such an exercise is impermissible in a Section 37 appeal unless the findings suffer from the statutory vices



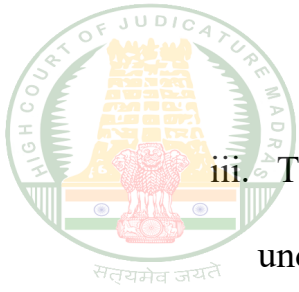
warranting interference. We find no such ground.

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5.14. Upon an independent consideration of the pleadings, the award and the order of the learned Single Judge, we are satisfied that the learned Single Judge has exercised jurisdiction within the parameters of Section 34 of the A&C Act, 1996.. The learned Single Judge has neither substituted a merely plausible view of the Court for the view of the Arbitral Tribunal nor interfered with the Award in respect of the Fourth and Fifth bridges without justification, The interference with respect to the First, Second and Third bridges was limited to correction of the period for which escalation, overheads and consequential interest could be claimed, based upon the contractual allocation of responsibility for delay. The order, therefore, does not warrant interference under Section 37 of the A&C Act, 1996.

6. In the result,

- i. the Original Side Appeal is dismissed.
- ii. The order dated 17.10.2019 passed by the learned Single Judge in O.P. No.431/2010 is confirmed. The appellant shall give effect to the award as modified by the learned Single Judge, after reworking the amounts payable in respect of the First, Second and Third bridges in accordance with the directions contained in the impugned order.



iii. The Award in respect of the Fourth and Fifth bridges shall remain undisturbed.

iv. The 1st respondent shall be entitled to post award interest at 12% per annum on the revised aggregate amount in accordance with the award and the order of the learned Single Judge. There shall be no order as to costs.

Consequently, connected miscellaneous petitions are closed.

(P.V.,J.) (K.G.T.,J.)
21-08-2026

Index: Yes/No

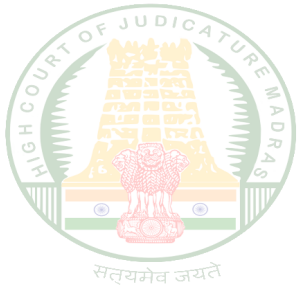
Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. M/s.SPL Infrastructure Pvt Ltd
(formerly S.P. Lakshmanan) No.24 (old
No.13/3) First Floor, Crescent Part Street, T.
Nagar, Chennai 17.
2. The Sub Assistant Registrar,
Original Side, High Court Madras



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Case Citation: (2026) ibclaw.in 4949 HC

OSA No. 29 of 2



**P.VELMURUGAN J.
AND
K.GOVINDARAJAN THILAKAVADI J.**

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**Pre delivery Judgment in
OSA No. 29 of 2021
AND
CMP NO. 727 OF 2021, CMP NO. 6029 OF 2022**

21-08-2026