

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. _____ OF 2022
(@ SLP (C) Nos. 1805-1806/2022)

DR. A. PARTHASARATHY & ORS.

...APPELLANTS

VERSUS

E SPRINGS AVENUES PVT. LTD & ORS.

....RESPONDENTS

O R D E R

We have heard Shri Ritin Rai, learned Senior Advocate appearing on behalf of the appellants and Shri Vikas Mahendra, learned counsel appearing on behalf of respondent no.1, who is on caveat and accepts notice on its behalf.

Leave granted.

By the impugned judgment and order passed by the High Court in exercise of power under Section 37 of the Arbitration and Conciliation Act, 1996, the High Court has set aside the award passed by the learned Arbitrator and has remanded the matter to the Arbitrator for fresh decision. As per the law laid down by this Court in the case of *Kinnari Mullick and Anr. Vs. Ghanshyam Das Damani* (2018) 11 SCC 328 and *I-Pay Clearing Services Pvt. Ltd. Vs. ICICI Bank Ltd.* (2022) SCC OnLine SC 4, the same is wholly impermissible. Only two options are available to the Court considering the appeal under Section 37 of the Arbitration Act. The High Court either may relegate the parties for fresh arbitration or to consider the appeal on merits on the basis of the material available on record within the scope and ambit of the

contd..

jurisdiction under Section 37 of the Arbitration Act. However, the High Court has no jurisdiction to remand the matter to the same Arbitrator unless it is consented by both the parties that the matter be remanded to the same Arbitrator.

In that view of the matter, the impugned judgment and order passed by the High Court is unsustainable and deserves to be quashed and set aside. However, as the High Court has not considered the appeals on merits on the grounds whichever may be available to the original appellant(s), the matter is to be remanded to the High Court to consider the appeals in accordance with law and on its own merits on other issues, if any.

In view of the above and for the reasons stated hereinabove, the present appeals succeed. The impugned judgment and order passed by the High Court quashing and setting aside the award passed by the Arbitrator and remanding the matter to the Arbitrator is hereby quashed and set aside. The matter is remanded to the High Court to re-consider the appeals in accordance with law and on its own merits on other issues, if any, and to consider legality and validity of the award passed by the Arbitrator, of course, within limited jurisdiction available under Section 37 of the Arbitration Act.

The present appeals are allowed to the aforesaid extent.

.....J.
[M.R. SHAH]

NEW DELHI
FEBRUARY 18, 2022

.....J.
[B.V. NAGARATHNA]

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

Petition for Special Leave to Appeal (C) Nos. 1805-1806/2022

(Arising out of impugned final judgment and order dated 08-11-2021 in COMAP No. 44/2021 and in COMAP No. 58/2021 passed by the High Court of Karnataka at Bengaluru)

DR. A. PARTHASARATHY & ORS.

Petitioner(s)

VERSUS

E SPRINGS AVENUES PVT. LTD & ORS.

Respondent(s)

(FOR ADMISSION and I.R.)

Date : 18-02-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Ritin Rai, Sr Adv
Mr. Chitranshul A. Sinha, Adv
Mr. Jaskaran Singh Bhatia, Adv
Ms. Namrata Mohapatra, Adv
M/S. Dua Associates, AOR

For Respondent(s) Mr. Vikas Mahendra, Adv.
Ms. Pritha Srikumar Iyer, AOR
Mr. Kaustav Saha, Adv.

UPON hearing the counsel the Court made the following
O R D E R
Leave granted.

The present appeals are allowed in terms of the signed
order.

Pending application(s) shall stand disposed of.

(NEETU SACHDEVA)
COURT MASTER (SH)

(NISHA TRIPATHI)
BRANCH OFFICER

(signed order is placed on the file)