

Toyo Engineering Corporation vs Indian Oil Corporation Limited on 2 August, 2021

Bench: Rohinton Fali Nariman, B.R. Gavai

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 4549-4550 OF 2021
(Arising out of SLP (C) No. 11766-11767/2020)

TOYO ENGINEERING CORPORATION & ANR.

VERSUS

INDIAN OIL CORPORATION LIMITED

O R D E R

Leave granted.

We have heard Mr. Mukul Rohatgi, learned Senior Advocate, appearing on behalf of the appellants and Mr. Rajeev Sharma, learned Senior Advocate, appearing on behalf of the respondent.

This Court repeatedly having held that Order XLI Rule 5 principles are to be followed in these cases, we find that largely because public corporations are involved, discretion continues to be exercised not on principles under Order XLI Rule 5 but only because large amounts exist and that Government Corporations have to pay these amounts under Arbitral Awards. Both these considerations are irrelevant, as has been pointed out by us earlier. As a matter of fact, the very matter referred to in the order dated 09.08.2019 and 06.03.2020, namely, O.M.P. (COMM) No. 366/2017 has resulted in a dismissal of a Section 34 petition in an award that was granted out of one of 17 other contracts arising out of the same general transaction. Mr. Sharma was at pains to point out that the Section 34 petition was dismissed in that matter on completely different grounds. Be that as it may, O.M.P. (COMM) No. 366/2017 at the highest, therefore, would be irrelevant. This O.M.P. (COMM) No. 366/2017 appears to be the main plank on which an amount of Rs. 125 Crores alone was ordered to be deposited out of an awarded amount of Rs. 662 Crores. Resultantly, we set aside both the orders and require a 100% deposit of the awarded amount to be made within a period of six weeks from today. The appellants may apply to the High Court to withdraw this amount on security. The appeals are disposed of.

..... J.

(ROHINTON FALI NARIMAN) J.

(B.R. GAVAI) New Delhi;

August 02, 2021.

ITEM NO.28

Court 2 (Video Conferencing)

SECTION XIV

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). 11766-11767/2020 (Arising out of impugned final judgment and order dated 09-08-2019 in IA No. 10900/2019 06-03-2020 in IA No. 1296/2020 passed by the High Court Of Delhi At New Delhi) TOYO ENGINEERING CORPORATION & ANR. Petitioner(s) VERSUS INDIAN OIL CORPORATION LIMITED Respondent(s) Date : 02-08-2021 These petitions were called on for hearing today. CORAM : HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN HON'BLE MR. JUSTICE B.R. GAVAI For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.

Mr. Susmit Pushkar, AOR For Respondent(s) Mr. Rajeev Sharma, Sr. Adv.

Mr. Nishant Menon, Adv.

Mr. Abhishek Birthray, Adv.

Mr. Deepesh, Adv.

Mr. Sumit R. Sharma, AOR UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeals are disposed of in terms of the signed order. Pending applications, if any, also stand disposed of.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
BRANCH OFFICER

(Signed order is placed on the file)