

M/S. Shakambari And Co. vs Union Of India on 22 April, 1992

Equivalent citations: AIR1992SC2090, 1992(2)ARBLR501(SC), 1993SUPP(1)SCC487, AIR 1992 SUPREME COURT 2090, 1992 AIR SCW 2462, 1993 (1) SCC(SUPP) 487, 1992 (2) ARBI LR 501, 1993 SCC (SUPP) 1 487, (1992) 2 ARBILR 501

Bench: S. Ranganathan, Yogeshwar Dayal

JUDGMENT

1. The special leave petition is marked as time-barred by 214 days. On behalf of the petitioner it is pointed out that, if properly computed, the delay is only 150 days, after excluding the time taken to obtain a certified copy of the judgment.

2. There has been no doubt some delay in this case because the certified copy was obtained on 16-11-1990 whereas the special leave petition was filed only on 15-7-1991. In fact, in the meantime, the Union of India had preferred an appeal against the impugned judgment and that had been dismissed on 18-3-1991 to the knowledge of the petitioner. This must have made the petitioner quite conscious of the necessity on his part to take some action to file an appeal. However, the truth appears to be that at that point of time, since the question of award of interest by an order was governed by the decision of this Court in Executive Engineer (Irrigation) v. Abhaduta Jena , perhaps, the petitioner had no intention of pursuing the matter in appeal. However, on 18-3-1991 he instructed his counsel to file a special leave petition. This seems to have been done because the question regarding the award ability of interest by the Arbitrator had been referred to a larger Bench by an order of reference dated 15-3-1991. In our opinion, in view of this development, which the petitioner was entitled to take advantage of, he took immediate action to instruct his counsel to file a special leave petition. The subsequent delay is only because he had to gather necessary particulars regarding calculation of interest get back the certified copy which had gone for execution purposes and the intervening vacation of this Court.

3. Taking all the circumstances into account, we are of the opinion that the delay in the filing of this special leave petition should be condoned subject to the petitioner paying costs of Rupees 5,000/- to the respondent. We direct accordingly.

S.L.P. (C) 1222/92

4. Leave granted.

5. The civil appeal has to be allowed in view of the decision of this Court in Secretary, Irrigation Department v. G.C. Ray 1992 AIR SCW 389. In view of that decision we hold that the interest was rightly awarded by the Arbitrator. Therefore, the decree will be completely in terms of the award. The orders of the learned single Judge and the Division Bench are set aside. The civil appeal is

allowed. There will be no order as to costs.