

Jharkhand High Court

Kamala Prasad Choudhary vs Chief Engineer R.E.O Ranchi on 16 September, 2011

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Arbitration Appeal No.6 of 2008

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Kamla Prasad Choudhary

Appellant

Versus

The State of Jharkhand & Ors.

Respondents

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CORAM: HON'BLE THE CHIEF JUSTICE

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For the Appellants : Mr. Rajeev Kumar For the Respondents : Mr. R.Mukhopadhaya

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Order No. 13 Dated 16th September, 2011 The trial court has passed the order on 06.10.2007 by exercising power under section 151 C.P.C. and declared the entire proceedings which appears to be of appointing Arbitrator under section 8 of the Arbitration and Conciliation Act, 1996 by the Court of Sub-Judge, IX, Ranchi have been declared nullity.

According to the learned counsel for the appellant this L.P.A. has been preferred under section 37 of the Arbitration and Conciliation Act, 1996. It appears from the facts of the case that the straightway application under section 8 of Act of 1996 was entertained by the Court who was not designated Court under section 11 of the Act of 1996 and the Arbitrator appointed by that order of the Court passed the Award and , thereafter, by the impugned order dated 06.10.2007 the same Court declared the entire proceedings of appointment of Arbitrator as nullity by invoking power under section 151 C.P.C.

Learned counsel for the appellant wants to satisfy this Court that such order setting aside the entire arbitration proceeding including the appointment of the Arbitrator can be challenged under section 37 of the Act by way of preferring appeal even when order has been passed under section 151 C.P.C. for setting aside the Arbitration Proceeding itself and not only the Award which is only a consequence of setting aside of the entire proceedings and to satisfy whether this impugned order dated 06.07.2007 passed by the Civil Court in exercise of power under section 151 C.P.C. can be challenged in appeal under section 37 of the Act of 1996.

At the request of the learned counsel for the appellant, put up this case on next Friday i.e. 23.09.2011.

(Prakash Tatia, C.J.) Raman/Birendra