

Supreme Court of India

Union Of India vs M/S. Momin Construction Company on 10 January, 1995

Equivalent citations: AIR 1995 SC 1927, (1997) 9 SCC 97

Bench: S Bharucha, K Paripooran

JUDGMENT

1. These appeals raise the same question of law and can be decided by a common Judgment.
2. For the purpose of convenience, the brief facts that are set out relate to the first appeal, Civil Appeal No. 1316 of 1977. The relevant dates in the other, appeals are similar.
3. The appellant and the respondents entered into a contract which contained an arbitration clause, namely, that all disputes or matters in difference between them arising out or connected with the contract during the progress of the construction work therein set out or after its completion would be decided by arbitration. The final bill in respect of the construction work was prepared and the respondents gave a No Claim Certificate on 11th August, 1965, whereupon the final bill was passed. On 26th February, 1971, the respondents filed a petition under Section 20 of the Arbitration Act to take on the file of the City Civil Court, Ahmedabad the arbitration agreement aforementioned. The appellant contested the petition and urged that it was barred by limitation. The issue was answered against the appellant and the petition was allowed.
4. The appellant preferred an appeal to the Gujarat High Court. The High Court relied upon various Judgments and concluded, basing itself principally upon the decision of this Court in Town Municipal Council, Athani v. Presiding Officer, Labour Court, Hubli , that Article 137 of the Limitation Act, 1963, did not apply to an application under Section 20 of the Arbitration Act. The High Court dismissed the appeal.
5. Two Judgments of this Court subsequent to the decision in the case of the Town Municipal Council (AIR 1969 SC 1325), aforesaid must be noted.
6. In Kerala State Electricity Board, Trivandrum v. T.P.K.K. Amsom and Besom, Kerala , this Court held that Article 137 of the Limitation Act, 1963, would apply to any petition or application filed under any Act to a Civil Court. The view taken by the two judge bench in the Town Municipal case AIR 1969 SC 1325, aforementioned was expressly different from and it was held that Article 137 was not confined to applications contemplated by or under the CPC. In Major (Retd.) Inder Singh Rekhi v. Delhi Development Authority , the decision in the case of Kerala State Electricity Board AIR 1977 SC 282, just cited was applied in respect of an application under Section 20 of the Arbitration Act. It was held that Article 137 applied thereto.
7. The claim in the first appeal aforementioned arose to the respondents therein before 11th August, 1965, when they issued the No Claim Certificate and the final bill was passed. The right to apply under Section 20, of the Arbitration Act, therefore, arose to the respondents before 11th August, 1965. The application under Section 20 was made by them much after the expiry of three years therefrom. The application under Section 20 was, therefore, plainly barred by time. The cases in the

other appeals are similar.

8. The respondents in the appeals have chosen not to appear. No point other than that mentioned above has been urged.

The appeals are allowed. The Judgments and orders under appeal are set aside. The applications filed by the respondents under Section 20, of the Arbitration Act are dismissed.

9. There shall be no order as to costs.