

M.P. No. 1682 of 2024

***IN THE HIGH COURT OF MADHYA
PRADESH
AT INDORE***

BEFORE

**HON'BLE SHRI JUSTICE SUSHRUT ARVIND
DHARMADHIKARI**

&

HON'BLE SHRI JUSTICE GAJENDRA SINGH

ON THE 2nd OF JULY, 2024

MISC. PETITION No. 1682 of 2024

(SUMANBAI AND OTHERS)

Vs

THE STATE OF MADHYA PRADESH AND OTHERS)

Appearance:

***(SHRI RAVINDRA KUMAR TRIVEDI, LEARNED COUNSEL FOR THE
PETITIONERS)***

(NONE FOR THE RESPONDENTS)

ORDER

Reserved on : 03.04.2024

Pronounced on : 02.07.2024

ORDER

Per: SUSHRUT ARVIND DHARMADHIKARI, J.

Heard on the question of admission.

This miscellaneous petition under Article 226 of the Constitution of India has been filed assailing the order dated 02.02.2024 passed in MJC-AV/1266/2018 passed by IV District Judge, Distt. Dewas whereby the application filed by the petitioners was directed to be returned to be filed before the District Court Ujjain where the seat of Arbitrator Commissioner Ujjain Division is situated after a period of four years of

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hearing without any objection by respondent no. 3/NHAI at the preliminary stage and participating in the proceedings before the Lower Court u/S 34 of the Arbitration and Reconciliation Act, 1996[referred to as 'the Act of 1996' hereinafter].

2. Learned counsel for the petitioners contended that the respondent no. 3/ NHAI had previously appeared and decided the cases u/S 3(g)(5) of the National Highways Act, 1956[referred to as ' the Act of 1956' hereinafter] in the District Court Dewas against the award passed by the Commissioner, Distt. Ujjain. No such objections regarding territorial jurisdiction of the Court was ever raised. There are large number of cases pending before the District Court u/S 34 of the Act of 1996 against the award dated 08.10.2018. The learned District Court erred in returning back the application to be filed before the District Court Ujjain after keeping the cases pending for more than four years. Being aggrieved, the present miscellaneous petition has been filed seeking quashment of the order impugned.

3. Heard, learned counsel for the petitioner and perused the record.

4. Admittedly, the award was passed by the Arbitrator i.e. the Commissioner, Ujjain and award was passed on 18.10.2018 after proceedings having been conducted at Ujjain and, therefore, learned Court below has rightly returned the application to be filed before the appropriate Court i.e. the District Court, Ujjain. Hence, no error has been committed by the the Court below in returning the application.

5. This fact gets fortified by the judgment passed by this Court in the case of **Madhya Pradesh Road Development Corporation Vs. Baisakhu alias Sadhu** reported in **AIR 2021 Madhya Pradesh 125** where it has been held that since the Commissioner, Jabalpur was notified as an Arbitrator for conducting arbitration proceedings, therefore, application u/S 34 of the Act of 1996 would be maintainable at

Jabalpur and not at Mandla.

6. In this particular case, the award was passed on 18.10.2018 at Ujjain, therefore the case of *Baisakhu alias Sadhu(supra)* is applicable to the present case also.

7. In view of the aforesaid pronouncement, learned Court below has not committed any error in refusing to exercise the jurisdiction over the application and returning the application to be filed before the District Court, Ujjain.

8. Accordingly, the present miscellaneous Petition is dismissed. However, petitioners would be at liberty to approach the appropriate forum in accordance with law, if so advised.

(S.A. Dharmadhikari)
Judge



(Gajendra Singh)
Judge

sh/-