

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 1098-1099 OF 2021  
(Arising out SLP (C) Nos. 740-741 of 2021)

NAVAYUGA ENGINEERING COMPANY

Appellant(s)

VERSUS

BANGALORE METRO RAIL CORPORATION LIMITED

Respondent(s)

O R D E R

1) Leave granted.

2) We have heard Mr. K.V. Viswanathan, learned Senior Advocate appearing for the appellant as well as Mr. Tushar Mehta, learned Solicitor General appearing for the respondent.

3) An Arbitral Award dated 16.08.2018 was made in favour of the appellant allowing 10 out of 16 claims which amounted to Rs. 175.32 Crores. The Award was made of a sum of Rs. 122.76 Crores amounting to Rs. 56.23 Crores principal and Rs. 66.53 Crores on various heads. A Section 34 petition that has been filed by the respondent is pending before the learned Additional City Civil and Sessions Judge at Bengaluru. On 21.12.2019, execution of the said Award was stayed on deposit of 60% of the figure of Rs. 122.76 Crores and security being given for the balance. Both parties filed writ petitions against the aforesaid order. The writ petition filed by the appellant was dismissed. The writ petition filed by the respondent was allowed in which a deposit of 50% of the principal amount of Rs. 56.23 Crores was ordered.

4) Despite this Court repeatedly referring to Section 5 of the Arbitration Act in particular and the Arbitration Act in general

and despite this Court having laid down in Deep Industries Ltd. Vs. ONGC & Anr. (2020) 15 SCC 706 that the High Court under Article 226 and 227 should be extremely circumspect in interfering with orders passed under the Arbitration Act, such interference being only in cases of exceptional rarity or cases which are stated to be patently lacking in inherent jurisdiction, we find that High Courts are interfering with deposit orders that have been made. This is not a case of exceptional rarity or of any patent lack of inherent jurisdiction.

5) This being the case, the impugned order of the High Court of Karnataka is set aside and that of the learned Additional City Civil and Sessions Judge is restored. The deposit of 60% and security for the remainder is to be made within four weeks from the date of our order.

6) The request of the learned Solicitor General that the Section 34 application be disposed of early is acceded to. The Additional City Civil and Sessions Judge is therefore directed to dispose of the Section 34 petition within a period of four months from today.

7) The appeals are disposed of.

..... J.  
(ROHINTON FALI NARIMAN)

..... J.  
(B.R. GAVAI)

New Delhi;  
March 05, 2021.

ITEM NO.28 Court 3 (Video Conferencing) SECTION IV-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 740-741/2021

(Arising out of impugned final judgment and order dated 07-09-2020 in WP No. 2815/2020 07-09-2020 in WP No. 1419/2020 passed by the High Court Of Karnataka At Bengaluru)

NAVAYUGA ENGINEERING COMPANY Petitioner(s)

VERSUS

BANGALORE METRO RAIL CORPORATION LIMITED Respondent(s)

Date : 05-04-2021 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. K.V. Viswanathan, Sr. Adv.  
Mr. Saurav Agrawal, Adv.  
Mr. Sahil Tagotra, AOR  
Mr. Anshuman Chowdhury, Adv.  
Mr. Sai Abhishek, Adv.  
Mr. Dev Priya Singh, Adv.

For Respondent(s) Mr. Tushar Mehta, SG  
Mr. Raghavendra S. Srivatsa, AOR  
Mr. S.Sriranga, Adv  
Ms. Komal Mundhra, Adv  
Mr. Likhi Chand Bonsle, Adv

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)