

MANU/SC/1630/2018

**IN THE SUPREME COURT OF INDIA**

Civil Appeal No. 10386 of 2018 (Arising out of SLP (C) No. 2334 of 2018)

Decided On: 10.10.2018

Appellants: **Radha Chemicals**  
**Vs.**

Respondent: **Union of India (UOI)**

**Hon'ble Judges/Coram:**

*Rohinton Fali Nariman and Navin Sinha, JJ.*

**Counsels:**

*For Appellant/Petitioner/Plaintiff: Partha Chakraborty, Pawan Upadhyay, Nishant Kumar, Paulomi Dutta, Surendra Kumar Gupta, Shaila Arora and Anisha Upadhyay, Advs.*

*For Respondents/Defendant: Aman Lekhi, ASG, Atulesh Kumar, S.K. Pathak, Raj Bahadur, Priyanka Das and Anil Katiyar, Advs.*

**Case Category:**

ARBITRATION MATTERS - SLPS CHALLENGING ARBITRATION MATTERS

**ORDER**

1. Leave granted.
2. Heard the learned Counsel appearing for the parties.
3. By an Award dated 28.02.2007, the Sole Arbitrator held that limitation would not stand in the way of a decision on merits, as a result of which an Award was made for a sum of Rs. 21,60,440/- together with 12% interest.
4. In a Section 34 petition filed before the learned Single Judge, the learned Single Judge found that the point of limitation had not been decided correctly and, therefore, remanded the matter to the Arbitrator in order that this point be decided afresh. He also went on to add that a new Arbitrator would have to be appointed in order to decide this afresh as he did not know about the whereabouts of the original Arbitrator. From this, an Appeal was preferred to the Division Bench, which, by the impugned judgment dated 06.11.2017, dismissed the Appeal against the learned Single Judge's judgment.
5. This Court in a series of judgments culminating in *Kinnari Mallick and Anr. v. Ghanshyam Das Damani* MANU/SC/0514/2017 : (2018) 11 SCC 328 held that the court while deciding a Section 34 petition has no jurisdiction to remand the matter to the Arbitrator for a fresh decision. It is, therefore, clear that the learned Single Judge's judgment is contrary to this judgment as a result of which both the judgments of the Single Judge as well as the Division Bench have to be set aside.
6. We, therefore, set aside both the judgments and relegate the matter to the stage of the original Section 34 petition, which now has to be heard, on its merits in accordance with the parameters laid down by this Court for decision Under Section 34 of the Arbitration and Conciliation Act, 1996.

**7.** Accordingly, we remand the matter to the Single Judge, who is requested to take up the matter and decide the same at the earliest considering that the Award in this case has been passed over ten years ago.

**8.** The Appeal is allowed in the aforesaid terms.

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