News

When an application is filed under Section 34 of the Arbitration & Conciliation Act, the award is not automatically stayed: Allahabad High Court

The Allahabad High Court received a petition under Article 227 to overturn the Commercial Court's decision in an execution case.



An appeal under Section 34 of the Arbitration & Conciliation Act, 1996, alone would not automatically result in a stay of the verdict, the Allahabad High Court has reaffirmed.
The High Court received a petition under Article 227 to overturn the Executing Court's or Commercial Court's decision in an execution case.

According to **Justice Piyush Agrawal's** Single Bench,

> "The petitioner filed the application under Section 34 of the Arbitration Act in 2017, which is a long time after the amended Act went into effect in 2015. Therefore, the petitioner's counsel's argument that the award in question was automatically stayed simply because the application was filed under Section 34 of the Arbitration Act is misplaced and cannot be accepted."

In Board of Control for Cricket in India Vs. Kochi Cricket Pvt. Ltd. and others (2018), the Apex Court's ruling was cited, holding that raising an appeal under Section 34 of the Arbitration Act would not automatically result in a stay of the award.

Advocates Ishir Sripat and Abhishek Kumar represented the Respondent and Petitioner, respectively.

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Historical Context

The petitioner occupies the building's ground level on an industrial site. Regarding rent payment, there was a disagreement between the defendant-respondent and plaintiff-petitioner. The plaintiff-petitioner was sued for eviction by the defendant-respondent. The petitioner in the aforementioned matter submitted an application for the plaint to be rejected under Order 7 Rule 11 CPC, arguing that the arbitration clause in the parties' rent agreement meant that the arbitrator alone should decide the dispute.

The Additional Sessions Judge dismissed the respondent's plaint. In order to get the same remedy, the respondent thereafter submitted an arbitration petition to the lone arbitrator. The respondent's claim was then granted by the arbitrator in an award, to which the petitioner objected before the Commercial Court under Section 34 of the Arbitration and Conciliation Act of 1996, but the objection was denied.

The property in question was sold to the second respondent by the first respondent while the petitioner's objection under Section 34 was pending. The litigation filed by the petitioner to annul the sale deed was denied. The petitioner contested the aforementioned order, and it was accepted. Within the Execution Case, the petitioner objected to the decree holder's application; however, the court granted the contested respondent's application through the impugned decision, and the judgment debtor/petitioner was ordered to pay Rs 8,58,795. The petition was therefore submitted to the High Court.

Justification

In reference to the rulings in *Board of Control for Cricket in India vs. Kochi Cricket Pvt. Ltd. and others (2018) and M/s Shree Vishnu Constructions vs. The Engineer in Chief Military Engineering Services and others (2023)*, the Bench outlined how the Apex Court has unequivocally determined that proceedings under Sections 34 and 36 of the Arbitration Act are court proceedings, and that any proceedings initiated subsequent to the amendment's enactment will be prospective in nature.

The petitioner filed the application under Section 34 of the Arbitration Act in 2017, the Bench noted, well after the modified Act went into effect in 2015. The petitioner's claim that the award in question would be automatically stayed upon filing the application under Section 34 of the Arbitration Act was thus rejected by the Bench.

The Bench determined that the contesting first respondent was entitled to mesne profits given that the petitioner had not left the disputed premises within 30 days of the award being passed and that the petitioner had not produced any documentation proving the award had been stayed by a responsible court.

The Bench rejected the petition because it could see no reason to intervene.

Title of Cause: LR Print Solutions v. Exflo Sanitation Pvt Ltd. and Two Others Citation: 2025:AHC:44024 (neutral)

Looks:

Advocates Abhishek Kumar and Ishwar Kumar Upadhyay are the petitioners.

Respondent: Ishir Sripat, an advocate

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