



1

AA-131-2024

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 5<sup>th</sup> OF DECEMBER, 2024

ARBITRATION APPEAL No. 131 of 2024

*AKME FINTRADE (INDIA) LTD.*

*Versus*

*SEEMA JAIN AND OTHERS*

.....  
Appearance:

*Shri Arpit Gupta - Advocate for the appellant.*

*Shri Abhishek Gupta - Advocate for respondents No.1 and 2.*

.....  
WITH

ARBITRATION APPEAL No. 129 of 2024

*AKME FINTRADE (INDIA) LTD.*

*Versus*

*MAYANK JAIN AND OTHERS*

.....  
Appearance:

*Shri Arpit Gupta - Advocate for the appellant.*

*Shri Abhishek Gupta - Advocate for respondents No.1 and 2.*

.....  
ARBITRATION APPEAL No. 130 of 2024

*AKME FINTRADE (INDIA) LTD.*

*Versus*

*PRAVEENA JAIN AND OTHERS*

.....  
Appearance:

*Shri Arpit Gupta - Advocate for the appellant.*



*Shri Abhishek Gupta - Advocate for respondents No.1 and 2.*

.....  
ARBITRATION APPEAL No. 132 of 2024

*AKME FINTRADE (INDIA) LTD.*

*Versus*

*RAHUL JAIN AND OTHERS*

.....  
Appearance:

*Shri Arpit Gupta - Advocate for the appellant.*

*Shri Abhishek Gupta - Advocate for respondents No.1 and 2.*

.....  
ARBITRATION APPEAL No. 133 of 2024

*AKME FINTRADE (INDIA) LTD.*

*Versus*

*MOHIT JAIN AND OTHERS*

.....  
Appearance:

*Shri Arpit Gupta - Advocate for the appellant.*

*Shri Abhishek Gupta - Advocate for respondents No.1 and 2.*

.....  
ORDER

*Per. Justice Vivek Rusia*

The appellants have filed these appeals against the order dated 30/05/2024, whereby the Commercial Court, District Indore has dismissed the execution proceedings by declaring the award *void*.

2. Learned counsel for the appellants submit that award had become final as the respondent / judgment debtor has not filed any appeal under Section 34 of the Arbitration and Conciliation Act, 1996 (for short hereinafter referred as 'Act of 1996'), therefore, once the award has attained finality, the Executing Court has wrongly declared the same as *void* and



dismissed the execution proceedings.

3. Learned counsel appearing for the respondents fairly admit that award cannot be declared as *void* because no appeal under Section 34 of the Act of 1996 was filed by them.

4. It is a settled law that Executing Court cannot go behind the award or decree to modify or declare it *void*. The role of the Executing Court is only to execute the award or decree. The grounds available under Section 34 of the Act of 1996 are not available to the Executing Court to declare any award *void* or set aside. As per Section 35 of the Act of 1996 the arbitral award is final and binding on the parties. Section 36(1) of the Act of 1996 says that where the time for making an application to set aside the award under Section 34 has expired, the award shall be enforceable.

5. Learned counsel appearing for respondents also submits that no such objection was filed before Executing Court that award is not executable and the Executing Court has *suo moto* passed an order dismissing the execution proceeding. We are surprised and shocked that how the impugned order has been passed declaring the award *void* by dismissing the application for execution.

6. Learned counsel for the respondent also submits that in fact compromised has been arrived between the parties on 24/10/2023 and the compromise deed has been executed. Learned counsel for the appellants submits that such compromise deed has not been produced before the Executing Court by the respondents, therefore, the Executing Court had no occasion to consider the said agreement.



7. In view of the aforesaid, we hereby set aside the order dated 30/05/2024 and restore the execution proceeding. If still the parties are willing to give effect to the compromise, they may produce the same before Executing Court.

8. Let a copy of this order be kept in the record of all the connected appeals.

Certified copy as per rules.

(VIVEK RUSIA)  
JUDGE

(BINOD KUMAR DWIVEDI)  
JUDGE

Tej