

ITEM NO.5

COURT NO.9

SECTION XI-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No. 23704/2023

[Arising out of impugned final judgment and order dated 13-04-2023 in ARBA No. 51/2017 passed by the High Court of Kerala at Ernakulam]

KANNUR MUNICIPALITY

Petitioner(s)

VERSUS

M/S K.K. BUILDERS

Respondent(s)

Date : 03-02-2026 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PANKAJ MITHAL
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s) Mr. Chander Uday Singh, Sr. Adv.
Mr. E. M. S. Anam, AOR

For Respondent(s) Mr. Vinay Navare, Sr. Adv.
Dr. Shine P. Sasidhar, Adv.
Mr. Gireesh Kumar K., Adv.
Mr. Raman Vr, Adv.
Mr. Patta Arunkumar, Adv.
Mr. Tom Joseph, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. We have heard Mr. Chander Uday Singh, learned senior counsel for the petitioner and Mr. Vinay Navare, learned senior counsel for the respondent.

2. The petitioner-Kannur Municipal Corporation (earlier Municipality) entered into a Concession Agreement dated 27.10.2004 with the respondent-M/s.

K.K. Builders for the purposes of building a bus stand complex to operate it and to transfer it after the concession period of 29 years and 3 months on BOT basis. Accordingly, a bus stand complex was constructed by the respondent and is under operation.

3. The petitioner intended to levy property tax in accordance with Section 233 of the Kerala Municipality Act, 1994¹.

4. On account of the said imposition of the property tax, in view of the Arbitration clause contained in the concession agreement, the parties were referred to the arbitration. The arbitrator made an Award on 03.09.2012 and held that in view of the exemption provided under Section 235 of the Act and as the petitioner-Municipal Corporation is the owner of the land and the building, the property is exempt from property tax.

5. The aforesaid Award on challenge being made under Section 34 of the Arbitration and Conciliation Act, 1996 was upheld and the appeal under Section 37 of the said Act was also dismissed.

6. In this view of the matter, the Arbitrator as well as the two Courts below have concurrently

1 Hereinafter referred to as 'the Act'.

held that the property is exempted from property tax as the petitioner is the owner of not only the land but also the building standing over it.

7. In view of the aforesaid concurrent findings, there is hardly any scope for interference with the impugned Award and the Judgment and Orders passed by the Courts below, especially in the light of our judicial decision in *Jan De Nul Dredging India Pvt. Ltd. Vs. Tuticorin Port Trust*: 2026 INSC 34. Accordingly, we are not inclined to entertain the special leave petition.

8. In the end, Mr. Singh argued that the imposition of interest at the rate of 15% on the amount awarded is not justified in the facts and circumstances of the case.

9. Considering the fact that the liability for refund of the tax arises under the Concession Agreement, we direct that no interest shall be payable, as directed by the Arbitrator, on the amount to be refunded. The principle amount awarded be refunded, if not so far, within a period of six weeks from today, otherwise it will carry an interest at the rate of 8% for the delayed period on the amount remaining unpaid.

10 The special leave petition stands disposed of with the aforesaid directions.

11. Pending application(s), if any, shall stand disposed of.

(SNEHA DAS)
SENIOR PERSONAL ASSISTANT

(NIDHI MATHUR)
COURT MASTER (NSH)