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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: May 22, 2009
Date of Order: May 29, 2009

+OMP 439/2006

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29.05.2009

M/s Woodfun

...Petitioner

Through : Mr. Sandeep Sharma, Advocate

Versus

Union of India

...Respondent

Through: Ms. Preeti Dalal, Advocate

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

This petition has been made by the petitioner under Section 34 read with Sections 11, 38 and 39 of the Arbitration & Conciliation Act, 1996 (for short, "the Act") with a prayer that this Court should terminate the mandate of the Arbitrator Mr. C.B. Lal on the ground that the learned Arbitrator had asked the petitioner to pay to him half of the amount of Rs.2,58,700/-, as the interim bill of his fee.

2. The arbitrator in this case was to be appointed by respondent Union of India, who initially appointed Shri Y.P.C. Dange as arbitrator. After sometime Mr. Dange resigned and in his place Shri A.K. Singhal was appointed as the arbitrator who entered upon the reference and proceeded with the case till completion of pleadings. Thereafter, he also

resigned and Mr. C.B. Lal, the present arbitrator was appointed. Mr. C.B. Lal fixed hearing of the matter on 31st July 2006 and on that date asked each of the parties to deposit half of his bill of professional fees and costs. The petitioner has placed on record hand written note of Mr. C.B. Lal.

3. In this case, since it is Union of India who appointed the present arbitrator and the earlier arbitrators, in terms of arbitration agreement the arbitrator so appointed should have been a serving officer and in case it was not a serving officer and was a retired officer, Union of India should bear the expenses of the arbitration. The arbitrator, while passing the award can always make an order qua costs. The mandate of the arbitrator cannot be terminated on the ground of higher fees being charged by him. Section 14 and 15 lay down specific grounds on which the mandate of the arbitrator can be terminated. Charging exorbitant fee is not a ground for termination of mandate of the arbitrator.

4. If the present arbitrator continues, the respondent shall bear the costs of the arbitration and the arbitrator while passing the award may make an order in respect of the costs of the arbitration.

The petition stands disposed of in above terms.

May 29, 2009
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SHIV NARAYAN DHINGRA J.