

**Court No. - 13**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 9312 of 2023

**Petitioner :-** Rajesh Kumar Yadav

**Respondent :-** State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Home Lko And 3 Others

**Counsel for Petitioner :-** Satyendra Kumar Tiwari, Sachin Pandey

**Counsel for Respondent :-** G.A.

**Hon'ble Karunesh Singh Pawar, J.**

Heard learned counsel for the petitioner as well as learned AGA for the State.

Notices to respondent no. 2, 3 and 4 are dispensed with in view of the proposed order.

By this petition, the petitioner has prayed for the following relief:-

*"a writ, an order or direction in the nature of certiorari quashing the impugned order dated 05.10.2023 passed by the Session Judge in criminal revision no. nil/2023 Sultanpur & remand the matter before the Session Judge Sultanpur for deciding the case on merit, contained as Annexure No.01 to this writ petition."*

Against the ex-parte award dated 24.10.2014 passed by the sole arbitrator contained in Annexure No. 6 to the petition, a revision under Section 34 of Arbitration Act was filed by the petitioner before the Court of Sessions, Sultanpur which was registered as claim petition No. 518/2014 *"M/s Indusind Bank Limited Vs. Rajesh Kumar and others"*. The said revision was dismissed vide impugned order dated 05.10.2023 and aggrieved by that, this petition has been filed.

Perusal of the award shows that initially first notice was issued to the petitioner on 10.09.2014 and since no one had appeared, again a fresh notice dated 08.10.2014 along with copy of the earlier proceedings was sent to both the respondents which were neither returned served nor unserved and hence, service of notice was deemed sufficient under Section 3(1)(b) of Arbitration Act, 1996 read with Section 27 of General Clauses Act.

Against this order, a revision was filed by the petitioner before the revisional court. In the revisional court, continuously for the last 11 dates, no one appeared for the revisionist. Since the copy

of the order under challenge was not filed in the revision, thus, the revisional court was of the opinion that the revisionist does not want to press the revision and accordingly, the revision petition was dismissed vide order dated 05.10.2023. The order dated 05.10.2023 passed by the learned revisional court is extracted below:-

"आदेश

06-10-2023 निगरानी अंगीकरण के बिन्दु पर सुनवाई हेतु पेश हुई।

बार-बार पुकार किये जाने के बावजूद निगरानीकर्ता की ओर से प्रस्तावित निगरानी पर बल देने हेतु कोई उपस्थित नहीं आया। पत्रावली के अवलोकन से यह पाक है कि विगत 11 तिथियों से निगरानीकर्ता की ओर से कोई बल देने हेतु उपस्थित नहीं आ रहा है तथा कार्यालय लिपिक की आख्यानानुसार निगरानीकर्ता की ओर से आज तक प्रस्तावित निगरानी से सम्बन्धित आलोच्य आदेश की नकल भी दाखिल नहीं की गयी है। ऐसा प्रतीत होता है कि निगरानीकर्ता प्रस्तावित निगरानी पर बल नहीं देना चाहता है। अतः प्रस्तावित दाण्डिक निगरानी निगरानीकर्ता व उसके विद्वान अधिवक्ता की अनुपस्थिति एवं अदम पैरनी के कारण अंगीकरण के स्तर पर ही निरस्त किये जाने योग्य है।

तदनुसार प्रस्तावित दाण्डिक निगरानी निगरानीकर्ता व उसके विद्वान अधिवक्ता की अनुपस्थिति एवं अदम पैरनी के कारण अंगीकरण के स्तर पर ही निरस्त की जाती है।"

On due consideration to the submissions advanced as well as perusal of the record, so also the impugned order dated 05.10.2023, I do not find any illegality in the impugned order. The Court was left with no other choice except to dismiss the petition.

The petition lacks merits and is accordingly dismissed.

**Order Date :- 8.12.2023**

R.C.