

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 1189 of 2004 (O&M)

Date of decision: 08.07.2015

Haryana Urban Development Authority

... Petitioner

versus

Raj Kumar and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Aman Chaudhary, Advocate for the petitioner.

K.Kannan, J.

The revision is against the order of Additional District Judge setting aside the award that was made the rule of Court by the court of first instance under the Provisions of the Arbitration Act, 1940.

The Court of first instance took note of the fact that notices of proceedings before the Arbitrator had been issued by the Arbitrator through registered post dated 19.04.1993, 28.04.1993, 05.05.1993, 06.05.1993 and 17.05.1993 and when the respondent have been served and still had not entered appearance, a public notice had been issued through publication of notice in the newspaper "Tribune" dated 04.07.1993 and the award was passed for possession by way of damages. The Court found that the objections taken by him before the Court that the Arbitrator misconducted himself had therefore no basis and passed the decree in terms of the award.

The impugned order of the Additional District Judge makes a laconic observation that the Arbitrator had adopted undue haste and without giving opportunity to the respondent, ex-parte proceedings have been passed against him. A ground of challenge to an arbitral award on a notice given by the Court could include any mis-conduct of the Arbitrator and such a mis-conduct must be understood as an act done without notice or acting beyond the terms of the agreement. If the Arbitrator had issued notices and with no

response and followed it up with a notice through paper publication, it must only be taken that Arbitrator had done whatever is necessary and no defect in the procedure or mis-conduct could be attributed to the arbitral proceedings or the Arbitrator.

Even a plea by the respondent that if there had been no arbitral agreement, had no basis since even the tender from which he had submitted for undertaking the contract specifically signified his consent for any dispute between the parties to be referred to Arbitration. This aspect has also been properly considered by the Court of first instance.

The Additional District Judge has held that the Arbitrator has not set forth the basis for compensation and damages. No reason is given in the award unless the parties themselves had provided in the arbitral agreement that the award ought to be a reasoned one. If the arbitral document does not require reasons to be given then the want of reason cannot be taken as a ground for assailing the award.

The finding of the court below that the basis for grant of damages has not been given cannot, therefore, survive judicial scrutiny.

The impugned order of the Additional District Judge is erroneous and the award which was made the rule of the Court by the Court of first instance is restored.

(K.KANNAN)
JUDGE

08.07.2015
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