

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 3340 of 2009

Date of decision : August 26,2015

M/s Sudarshan Kumar Contractors

..... Petitioner

Versus

**Punjab State through Executive Engineer, Jayanti Construction
Division, SYL Canal Project, Punjab and another**

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Arvind Mittal, Advocate
for the petitioner.

Mr. Rajesh Mehta, Additional Advocate General,
Punjab.

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

Amit Rawal, J (oral).

The challenge in the present revision petition is to the impugned judgment and decree passed by the trial court dated 26.11.1999 whereby the objections filed by the State against the award dated 27.6.1994 has been accepted and as well as decree dated 18.3.2009 whereby the appeal filed against the aforementioned decree passed by the trial court has been dismissed.

Mr. Arvind Mittal, learned counsel for the petitioner submits that both the courts below have committed illegality, much less perversity in accepting the objections and dismissing the appeal.

He further submits that the courts below have wrongly held that the letter dated 27.6.1994 written by the objector to the Arbitrator to the effect that the arbitrator had been restrained from conducting further proceedings for the reasons that place of arbitration was at Shahpur Kandi and office of the Executive Engineer is at Mohali so it was impractical to reach the arbitrator on the same date whereas the case before the arbitrator was fixed on 24.6.1994. The arbitrator had pronounced the same on 28.6.1994 though he had already signed on 27.6.1994. He further submits that there is no bar upon the arbitrator to sign the award before the date of pronouncement and the order is communicated from the day it is received by the arbitrator. The courts below ought not to have accepted the objections.

Mr. Rajesh Mehta, Additional Advocate General, Punjab submits that the arbitrator misconducted and therefore the State had approached the trial court for stay of further proceedings before the arbitrator and the same was granted on 27.6.1994 and the arbitrator in his order dated 23.6.1994 as noticed by the lower appellate court fixed the hearing of the matter on 28.6.1994 at 10.00 A.M. The interim order dated 23.6.1994 reads thus:-

“that as the claimant has closed his evidence and do not want to make any further submissions, I have no other option but to close the case and fix the date for announcement and publishing the award on 28.6.1994 at 10.00 A.M in my office Administrative Block RSD-Shahpur Kandi. The claimant is directed to provide stamp paper worth Rs.125/-. Both the parties are directed to deposit the arbitration fee on the next date of hearing.”

Once the matter was listed for 28.6.1994 there was no occasion for the arbitrator to pronounce the award on 27.6.1994 when further proceedings before the arbitrator had been stayed. On 28.6.1994 the arbitrator stayed the further proceedings but the fact remains that he signed and pronounced the award on 27.6.1994. The zimni order dated 28.6.1994 reads thus:-

“Present: Sh. Harbhajan Singh Kathuria on behalf of claimant.

Sh. H. S. Kooner, XEN.

Statement of Shri H. S. Kooner, Executive Engineer

.....Statement of Sh. Harbhajan Singh Kathuria.....

ORDER

Photocopy of the order requested for may be supplied to the petitioner. In the meantime further proceedings are stayed.”

In these circumstances the court below have rightly accepted the objections.

I have heard learned counsel for the parties and appraised the paper book.

After noticing the aforementioned facts, it was not within the domain of the arbitrator to pronounce the award on 27.6.1994 when the date was fixed on 28.6.1994. The said act on the part of the arbitrator reflects many things, much less mala fide in his conduct. The objections in my view, have been rightly accepted. There was no merit in the appeal filed by the petitioner before the lower appellate court. It is not the case of the parties that the civil

court re-examine or re-appraise. It is only the order which has been passed by reflecting the conduct of the parties.

In view of the facts and circumstances narrated above, there is no illegality and perversity in the order. Accordingly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

August 26, 2015
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