

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-7208-2011

Date of Decision:21.08.2015

PUNJAB SMALL INDUSTRIES AND EXPORT CORP. LTD.

.....Petitioner

Vs.

M/S OM PARKASH BALDEV KRISHAN

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Balwinder Singh, Advocate
for the petitioner.

Mr. Vivek Suri, Advocate
for the respondent.

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?*

RAJ MOHAN SINGH, J. (Oral)

1) In this petition under Article 227 of the Constitution of India, prayer is to quash the judgment and decree dated 22.09.2007 passed by Civil Judge (Sr. Divn.), Chandigarh, judgment & decree dated 28.02.2011 passed by District Judge, Chandigarh and award of the Arbitrator dated 30.12.1999.

2) Petitioner-Corporation and respondent No.1 had entered into an agreement for the construction of building in Sector 17, Chandigarh. Clause 25 of the said agreement stipulated that respondent No.1 was to make a demand for arbitration in respect of his claim if any, in writing within

90 days of the acceptance of final measurements. The work was done by the respondent No.1 and measurements were finally taken on 31.05.1999 and final bill of the agency was cleared on 21.01.1993 after giving due consideration to the claim and counter-claim of respective parties. It was claimed that though the final measurements were taken on 31.05.1999, but reckoning the limitation from passing the final bill i.e. 21.01.1993, the claim if any, could have been filed up to 21.04.1993. As per Corporation, no claim was submitted by respondent No.1 within that time and claim was presented by respondent No.1 to the Arbitrator on 8.11.1993 and therefore, demand of respondent No.1 was treated to be time barred.

3) According to petitioner, respondent No.2 misconducted himself in announcing the award on 30.12.1999 for the reasons mentioned in para No.5 of the petition. During the course of arguments, according to the trial Court, award dated 30.12.1999 was made rule of the Court.

4) Arbitrator awarded interest at the rate of 18% per annum, however, trial Court reduced the same to the extent of 12% and the same rate was upheld by the lower appellate Court. During the course of hearing, parties are ad idem that principal amount has already been paid in favour of respondent No.1. The controversy forming subject matter of present petition is to the extent of settling rate of interest payable on the award amount. Trial Court awarded 12% interest from 14.03.1995 till award as well as future interest at the same rate on awarded amount from date of award till final realisation. Now parties have settled the amount to the tune of 10% from 14.03.1995 on the awarded amount till date of award as well as future interest at the same rate on the awarded amount till final

realization of the amount in question. Petitioner on instructions from Department agreed to the aforesaid fixation. With this modification, this revision petition is disposed of.

5) Let necessary calculations be made by the petitioner, subject to verification by the respondent No.1 and thereafter, computed amount on the basis of payable interest at the rate of 10% per annum as discussed above, be made to the respondent No.1 within a period of 3 months. It is made clear that if the amount so calculated is not paid within a period of 3 months from today, the awarded interest by the Courts shall be recovered thereafter.

6) With this modification, judgment and decree of the Courts below are modified.

August 21, 2015

SwarnjitS

(RAJ MOHAN SINGH)

JUDGE