

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No. 7514 of 2013 (O&M)

Date of decision: 09.10.2015

M/s Kuljit Singh and Co.

... Petitioner

versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. P.S. Rana, Advocate for the petitioner.

Ms. Vandana Malhotra, Advocate for the respondents.

K.Kannan, J.

The revision is against the order rejecting the application filed by the contractor who has secured an award before the Arbitrator for a certain sum as the amount payable by the State under the terms of the contract. The Arbitrator's award also provided for escalation amount as per the formula stipulated under the terms of the contract and also the refund of the security amount. They have been discussed by the Arbitrator as claim No. 39 and 40 respectively. The State had challenged the award on a notice in the petition filed for making the award the rule of Court. The Court rejected the objections given by the State and made the award the rule of Court.

The Contractor was aggrieved that the decree drawn up did not provide for the escalation amount and the refund of the security, both of which were acceded to by the award of the Arbitrator. The contention was that the omission was merely accidental and when the Court was rejecting the objection of the State and made the award the rule of the Court it was unexceptional about every term of the arbitrator's award. The petition was dismissed on the ground that the Arbitrator himself had not actually determined the escalation amount and had not also spelt out the amount of security deposit that had to be

refunded. Since the operative part of the judgment merely made a reference to the amount due under the contract for work done with interest, the other claims must be taken as impliedly rejected.

The counsel has taken me through the portion of the awards of the Arbitrator and the claim Nos. 39 and 40 for escalation amount and for security deposit. I have no difficulty in understanding that when the Court was rejecting the State's objection and making the award the rule of Court, it had merely omitted the reference to claim Nos. 39 and 40 which must only be taken as accidental and liable for correction under Section 152 of the Civil Procedure Code. The reasoning of the Court below in rejecting the application is not tenable.

The impugned order is set aside and the civil revision petition is allowed with costs of Rs. 10,000/- against the respondents.

(K.KANNAN)
JUDGE

09.10.2015

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