

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1869 of 1993 (O/M)
Date of decision : 10.3.2015

The State of Punjab through Executive Engineer, Chandpur
Construction Division SYL Canal Project, Punjab Appellant

Versus

M/S Phool Chand Satya Pal and another Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Jasleen Kaur Sidhu, Assistant A.G., Punjab,
for the appellant-State.

Mr. Ankit Aggarwal, Advocate, for,
Mr. Anupam Singla, Advocate, for respondent No. 1.

None for respondent No. 2.

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

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KULDIP SINGH, J. (ORAL)

The State of Punjab has filed this appeal against the judgment dated 6.9.1993, passed by the learned Senior Sub Judge, Rupnagar, vide which the objections filed by the State were dismissed and the award dated 22.1.1990 was made rule of the court and accordingly, a decree for recovery of Rs. 17,77,350/- was passed in favour of the petitioner/Contractor (respondent No. 1 herein) and against respondent No. 1 (appellant-State herein). The

future interest @ 12% per annum from the date of award till the date of realization of the decretal amount was also awarded to the petitioner/Contractor (respondent No. 1 herein).

Briefly stated, the State of Punjab invited tenders for 22.2.1983 by notice of publication on 7.1.1983 for construction of SYN Canal at RD 20 kms. to 22 kms. The petitioner/Contractor before the lower Court i.e. M/s Phool Chand Satya Pal (respondent No. 1 herein) submitted the lowest rates and accordingly, the work of construction was allotted to it. Thereafter, a dispute arose between the parties and respondent No. 2 was appointed as a Sole Arbitrator, vide letter dated 9.3.1989. Respondent No. 2 passed the award dated 22.1.1990 and on 30.1.1990, the petitioner/Contractor (respondent No. 1 herein) filed a petition in the Court for making the award rule of the court under the Arbitration Act, 1940, as applicable then (in short '1940 Act'). However, the State of Punjab filed the objections under Section 30 of the 1940 Act. It was stated in the objections that the Arbitrator has ignored the pleadings, evidence and arguments. The said award is based on surmises and conjunctures. A specific ground was taken that the Arbitrator has discarded the very relevant pieces of evidence. He has misconducted the proceedings and has not applied the mind and has not observed the principles of natural justice.

The learned Senior Sub Judge, Rupnagar, framed the issues and after recording the evidence of both the parties, the

objections of the State were dismissed and the award was made rule of the court.

I have heard learned counsel for the parties and have also carefully gone through the file.

A perusal of the file shows that the Arbitrator was none else than the Superintending Engineer, Construction Circle No. IV SYL Canal Project himself. A perusal of the impugned order dated 6.9.1993 shows that the learned Senior Sub Judge, Rupnagar, had dealt with all the points in hand. In issue No. 1, he had dealt with claims. It was stated that the delay in the execution of work was due to non-availability of site. The petitioner/Contractor (respondent No. 1 herein) had deployed machinery, but he could not utilize the same. The Arbitrator has given sufficient discount in favour of the department. The Arbitrator assessed the claim at Rs. 10 lacs. However, the Arbitrator awarded only Rs. 6 lacs, thereby benefitting the department by Rs. 4 lacs. The loss of profit was calculated by the Arbitrator @ 10%. The other claims were also discussed and after meeting all the points, the impugned award dated 22.1.1990 was passed.

I am of the view that this Court is not to sit on the judgment of the Arbitrator and substitute his reasoning by its own reasoning. The Arbitrator, who was the man of the department itself, gave sufficient concession to the department and after calculating everything, the award was passed under every head. Therefore,

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there is no illegality or infirmity in the impugned award dated 22.1.1990, passed by the Arbitrator and the order dated 6.9.1993, passed by the learned Senior Sub Judge, Rupnagar, upholding the award.

Consequently, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

10.3.2015
sjks