

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

**FAO No.1584 of 2010 (O&M)
Date of decision: 22.12.2015**

Sukhdev Singh Contractor

... Appellant

Vs.

The Arbitrator-cum-Superintending Engineer & another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. G.S.Sandhu, Advocate
for the appellant.

Mr. Piyush Bansal, DAG, Punjab
for respondent No.2.

AMIT RAWAL J. (Oral)

C.M.No.27079-CII-2015

For the reasons stated in the application, duly supported by an affidavit, delay of 1095 days in filing the application, is condoned.

C.M. Stands disposed.

C.M.No.27080-CII-2015

For the reasons stated in the application, duly supported by an affidavit, order dated 19.11.2012 is recalled and the appeal is

restored to its original number.

The application stands allowed.

FAO No.1584 of 2010 (O&M)

The appellant-contractor is in Appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (in short '1996 Act') seeking setting aside the order dated 19.01.2009, whereby, the objections filed under Section 34 of 1996 Act, for setting aside the Award dated 04.07.2006, have been dismissed.

Mr. G.S.Sandhu, learned counsel appearing on behalf of the appellant/contractor submits that there was a contract between the parties. However, a dispute arose and resolution of the same was sought by way of arbitration and the matter was referred to the Arbitrator. Before Arbitrator, 18 claims were filed but the Arbitrator only entertained 7 claims. Aggrieved of the aforementioned Award, objections under Section 34 of 1996 Act, were filed but the same have also been dismissed. Though the Objecting Court framed the issues and granted liberty to lead the evidence and in the cross examination of the respondents' witnesses, it has surfaced that there is no fault of the contractor.

Mr. Piyush Bansal, learned Deputy Advocate General, Punjab submits that there is no illegality and perversity in the order and the objections are not within the realm of Section 34 of 1996 Act, therefore, the objections have rightly been dismissed.

I have heard learned counsel for the parties and

appraised the paper book.

Leading of evidence in objections, tantamounts to filling up of lacunae. The objections have to be within parameters of Section 34 of 1996 Act. The objections are required to be filed within the realm of the aforementioned provisions of 1996 Act. The Arbitrator, being expert, had already examined and determined the claim and found that contractor is only entitled to 7 claims. The Court cannot sit on the arm chair of an expert to re-appreciate and re-examine the evidence.

It is now a settled law that as to under what circumstances the award has to be interfered with. The question which has now been raised in the aforementioned appeal has already been answered by the Hon'ble Supreme Court in catena of judgments wherein it has been laid down that until and unless the award suffers from illegality as statutorily prescribed under Section 31 (3) of the Act, the same cannot be interfered with. In this context I intend to refer the judgments of Hon'ble Supreme Court in **Associate Builders Vs. Delhi Development Authority (2015) 3 SCC 49** and **Navodaya Mass Entertainment Ltd. Vs. J. M. Combines (2015) 5 SCC 698**. In the aforementioned judgment the Hon'ble Supreme Court had culled out the ratio decidendi by holding that until and unless there is error apparent on the face of record or the arbitrator has not followed statutory legal position, it is only in these circumstances it would be justified interfering with the award. The

High Court should not act as a Court of appeal and reappraise the material/evidence and embarked on a path by substitution in its own view. The arbitrator has dealt with the dispute which was contemplated and was within the scope of it.

In my view the award of the Arbitrator does not suffer from any illegality, in as much as, the Arbitrator who is expert has dealt with the matter and decided the claim of respective claimants to the parties to the *lis*.

In my view, no error of law arise from the award as well as order impugned. The award is perfect and justified.

There is no merit in the aforementioned appeal.

The appeal is accordingly dismissed.

(AMIT RAWAL)
JUDGE

December 22, 2015

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