

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

FAO No.4487 of 2010 (O&M)

Date of decision : 15.12.2015

M/s Banwari Lal Suresh Kumar

...Appellant

Versus

Union of India and ors.

...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. P.S. Rana, Advocate for the appellant.

Mr. Deepak Malhotra, Advocate for respondent No.1-UOI.

AMIT RAWAL, J. (Oral)

The appellant-Contractor is aggrieved of the order dated 01.12.2009, whereby objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 seeking setting aside of the award dated 19.05.2008, has been dismissed.

Mr. P.S. Rana, learned counsel appearing on behalf of appellant-Contractor submits, that respondent invited the tender for construction of two units namely C & D block and fixed the price of ₹42,72,200/-. Before the acceptance of the tender, amendment was made and invitation of the bids confined to one block & its price fixed was

₹21,36,100/- and when the construction of one unit was about to complete, he was called upon to complete the construction of other block, though it was protested, that tender was initiated with respect to one unit/block but the respondent did not adhere to his request which entailed into construction/work of second unit i.e. D-block and since there was dispute, matter was referred to Arbitrator who declined the same. He submits that once protest has been made, claimants could not refuse to pay the expenses incurred for construction of the second unit/block. It amounts to undue enrichment, in essence, they have not paid a single penny for construction of the second unit whereas Contractor has spent lacs of rupees, thus, there is illegality and perversity in the award, much less, zimni orders, whereby objections have been dismissed.

Mr. Deepak Malhotra, learned counsel appearing on behalf of Union of India submits, that once tender was for one block, rightly so claim has been rejected by the Arbitrator and also not accepted by the Objecting Court.

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

Once the appellant had submitted tender for one unit/block, price of which was ₹21 lacs, if he had raised construction with regard to other unit, it was his volunteered Act, without there being any acceptance of the tender, much less, his whim. Union of India did not invite the bid/tender of second unit. In my view, the Arbitrator has rightly rejected the claim in the absence of any invitation of the bid despite the fact that the Contractor had raised the protests. In case protest has not been adhere to, Contractor

should not have undertaken the task of raising construction vis-a-vis second unit.

Keeping in view the aforementioned fact, I do not intend to differ with the findings rendered by the Arbitrator and Objecting Court.

Accordingly, appeal is dismissed.

15.12.2015

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**(AMIT RAWAL)
JUDGE**