IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 4985 of 2015(O&M)
Date of decision : October 9, 2015

Sanjeev Kumar Aggarwal and others

.... Appellants

Versus

GE Money Financial Services Pvt. Ltd.and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Gurcharan Dass, Advocate
for the appellants.

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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?

Amit Rawal, J (oral).

The challenge in the present appeal is to the impugned order dated 11.2.2015 whereby the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 against the ex-parte award dated 31.1.2011 has been dismissed.

Learned counsel for the appellants submits that the award had been passed at Delhi whereas the execution has been sought at Ludhiana. He further submits that the Objecting court was enjoined upon an obligation to deal with all the objections, but the same, has erroneously been dismissed without rebutting the each and every objection. Thus, there is illegality and perversity in the order aforementioned.

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

It is a matter of record that the appellants-objectors despite having been served with the notice of the arbitration proceedings did not appear before the arbitrator. The arbitrator passed ex-parte award in favour of the claimants. The execution of the award was being sought to be executed at Ludhiana. Since the appellants are residing at Ludhiana, there is no dispute with regard to the aforementioned proposal that the execution of the award can be filed where the respondents are residing. The scope of entertaining the objections is very limited. All the objections which the appellants have taken could have been taken before the arbitrator. The appellants have received the summons of the execution proceedings at the same address where the arbitrator had sent the registered notice. It appears that the appellants intentionally absented and did not chose to contest the claim of the claimants-respondents.

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.

In my view, no error of law arise from the award of the arbitrator as well as order of the Objecting court dated 11.2.2015.

There is no merit in the aforementioned appeal.

The appeal is accordingly dismissed.

(AMIT RAWAL)
JUDGE

October 9, 2015
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