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

FAO No.7038 of 2015 (O&M)
Date of decision: 14.10.2015

Union of India and another ... Appellants

Vs.

Hardayal Singh and others ... Respondents

FAO No.7041 of 2015 (O&M)

Union of India and another ... Appellants

Vs.

Inderjit Singh and others ... 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. R. S.Madan, Advocate
for the appellants (in both cases).

AMIT RAWAL J. (Oral)

This order of mine shall dispose of two First Appeals, bearing No.7038 of 2015, titled as Union of India and another vs. Hardayal Singh and others and FAO No. 7041 of 2015 titled as Union of India and another vs. Inderjit Singh and others.

Appeals filed on behalf of the National Highway Authority of India, whereby, the objection against the Award dated 02.03.2012, have been held beyond limitation, much less, without jurisdiction, has been dismissed.

In FAO No.7038 of 2015, the objection has been dismissed on the following three grounds:-

i) Arbitrator did not have territorial jurisdiction to entertain the objections as per Section 42 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 1996 Act) as the landowners had already filed objections at Gurdarspur.

ii) Objections were time barred.

iii) Objections were not within the parameters of Section 34 of 1996 Act.

Mr. R.S.Madan, learned counsel appearing on behalf of the appellants submits that the objecting Court could not have entertained the objections, once it formed opinion that it did not have jurisdiction to entertain the same. Appellants could have been relegated to the jurisdiction of Gurdaspur, where, landowners have already filed the objections against the Award dated 02.03.2012. In essence, objecting Court should not have pondered upon other aspects of the matter.

In support of his aforementioned contention, he relied upon judgments rendered by various Courts in **Gayatri Prasad V. Dwivedi vs. Mahindra and Mahindra Financial Services 2013(8)**

R.C.R.(Civil) 910; Commander Works Engineer vs. M/s Diplomat Engineer and another 2011(5) R.C.R.(Civil) 673 and Satluj Jal Vidyut Nigam Limited vs. M/s Continental Foundation Joint Venture 2005(2) CLJ(H.P) 262, to contend that once the Court did not have jurisdiction under Section 42 of 1996 Act, the matter should have been sent to Court having jurisdiction and should have not been decided on merits.

I have heard learned counsel for the appellants and appraised the finding rendered by the objecting Court.

On perusal of the findings rendered by the objecting Court, it has been found that Award was pronounced on 02.03.2012 and the appellant received copy of the same on 10.04.2012, whereas, objections were filed on 16.7.2012 beyond 90 days but within the grace period of 30 days. Even the objections were not within the parameters of Section 34 of 1996 Act. No separate application accompanied, by an affidavit, has been filed seeking condonation of delay in filing the objections beyond a period of 90 days but within 120 days. Though there is force in the submission made by learned counsel for the appellants, that once the Court at Jalandhar did not have territorial jurisdiction, it should not have deliberated upon the merits and de-merits of the matter. Though there is no dispute with regard to the ratio decidendi culled out in the aforementioned judgments cited supra, but the fact remains that once the objections were ex facie time barred, it would totally futile and farcical exercise to relegate the appellants to the jurisdiction of Gurdaspur, where the landowners stated to have filed the objections.

I do not intend to differ with the finding rendered by the objecting Court as scope of entertaining the objections under Section 34 of 1996 Act, is very limited.

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. It is not the case of the appellant that the award is against the public policy or has violated the principles of judicial approach, much less against the statute and other provisions of Section 34 of the Act.

The award read as a whole is just, fair and reasonable. It is now a settled law that the Arbitrator is the sole judge of quality and quantity of the evidence before him and decide on the basis of the available evidence.

In my view, no error of law arise from the award. The award is perfect and justified and all the objections filed against the same were wholly misconceived.

There is no merit in the aforementioned appeals. The same are accordingly dismissed.

(AMIT RAWAL)
JUDGE

October 14, 2015
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