IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 7335 of 2015(O&M)
Date of decision : October 29, 2015

State of Haryana and another

.... Appellants

Versus

M/s Mangalam Co-op L&C Society Ltd.and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ravi Partap Singh,AAG., Haryana
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 3.8.2015 whereby the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') for setting aside of the award dated 6.11.2012 has been dismissed.

The arbitrator declined the claims of the appellant, however, accepted the counter claims. It would be apt to reproduce the award:-

S.No.	**Particulars**	**Claimed amount (Rs.)**	**Awarded amount (Rs.)**
Claims preferred by Petitioner/Claimant			
1.	Claim on account of penalty imposed upon the respondent Society under clause 2 of contract agreement.	2,55,824.00	Nil

2.	Claim on account of work done at risk and cost of of the respondent Society under clause 3(C)of the contract agreement.	2,77,673.62	Nil
3.	Interest on claim No.1 &2	18% p.a.	Nil

Counter claims preferred by Respondent Society

1.	Loss due to idleness of Labour	5,94,000.00	1,48,500.00
2.	Loss profit	2,50,000.00	76,500.00
3.	Refund of earnest Money	23,800.00	23,800.00
4.	Interest on claims No.1,2,3	18% p.a.	12% p.a.on Rs.23800.00 to be calculated by the department from 1.5.2006 to date of award i.e. 23.10.2012
5.	Litigation/Consultancy charges	1,50,000.00	50,000.00

Aggrieved of the aforementioned finding, the appellant filed the objections. The objections have been dismissed on the ground that none of the objections were falling within the parameters of Section 34 of the Act.

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.

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 appeal.

The appeal is accordingly dismissed.

(AMIT RAWAL)
JUDGE

October 29 , 2015
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