

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

-.-

CR 2785 of 2015
Date of decision: 10.05.2016

Union of India

..... Petitioner

Versus

M/s W R Traders and another

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Sushil Saini, Advocate
for the petitioner

-.-

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

Rekha Mittal, J. (Oral)

The present petition has been directed against orders dated 01.03.2012 (Annexure P2) passed by the Additional Civil Judge (Senior Division) Abohar and dated 12.11.2014 (Annexure P3) passed by the Additional District Judge, Fazilka whereby the objections preferred by the petitioner against the Arbitral award dated 20.01.2004 (Annexure P1) have been dismissed.

Counsel for the petitioner would contend that the award given by the Arbitrator is the result of non-application of mind as there is no evidence that the delay in installment of DG set is attributable to the petitioner for its failure to provide the site in time. It is further submitted that as a matter of fact, the said delay is attributable to the contractor-

respondent No. 1 as it failed to submit the test report in time. Another submission made by counsel is that even the time for execution of the work was extended and respondent No. 1 did not raise any protest against that. The last submission made by counsel is that the Courts below committed a serious error rather illegality in rejecting the objections.

I have heard counsel for the petitioner and perused the paper book particularly the award given by the Arbitrator and orders impugned but find no merit in the petition.

It is an admitted position of the case that the award in this case was given by the Arbitrator under the Arbitration Act, 1940 (in short, 'the 1940 Act'). The petitioner filed the objections by invoking the provisions of Section 30 of the 1940 Act. As per the settled position in law in regard to award given under the 1940 Act, the Court can neither sit in appeal over the award of the arbitrator nor can re-appreciate the evidence in order to differ with the findings given by the Arbitral Tribunal. In this view of the matter, I do not find any error much less illegality in the consistent findings recorded by the Courts below as would call for intervention.

For the foregoing reasons, finding no merit, the petition is dismissed in limine.

10.05.2016
mohan bimbra

(Rekha Mittal)
Judge