

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

CR No.5793 of 2016 (O&M)

Date of decision:14.09.2016

NHPC Limited

... Petitioner

Vs.

M/s Patel Engineering Limited and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ajit Pudussery, Advocate with
Mr. Gaurav Chopra, Advocate
for the petitioner.

Mr. A.S.Chadha, Advocate with
Mr. Adarsh Jain, Advocate
for the caveator/respondent No.1.

AMIT RAWAL J. (Oral)

Mr. Ajit Pudussery, learned counsel appearing on behalf of the petitioner submits that NHPC Limited is aggrieved of two things (i) dismissal of the objections and; (ii) dismissal of application under Section 152 of Code of Civil Procedure (hereinafter referred to as "CPC") seeking correction/modification of the order dated 26.10.2015.

He has drawn the attention of the Court to the direction to contend that claim no.3 pertains to clubbing of claim Nos.A2.3 and B2.2 which has been set aside. However, in the operative part of the order, there has been an error apparent on record that award with regard to claim 3 is upheld. It is in this background, the petitioner had filed above mentioned two applications but the same have erroneously been dismissed.

Mr. A.S.Chadha, learned counsel appearing on behalf of caveator/respondent No.1 submits that mode and manner adopted by the petitioner is not correct one. If at all, the petitioner is aggrieved, remedy was to file an appeal. No doubt, against the order dated 26.10.2015, the respondents are in FAO No.1107 of 2016 which is pending adjudication in this Court. In pursuance to the order dated 26.10.2015, execution application has been filed and the account of the petitioner has been attached. On instructions from his client, he is willing to furnish the bank guarantee amounting to ₹14,22,56, 700/- inclusive of interest which shall be valid for the period as this Court deems it appropriate.

I have heard learned counsel for the parties and appraised the paper book and of the view that the findings given in the order dated 26.10.2015, according to Mr. Puduserry, were not within the domain or realm of Section 152 of Code of Civil Procedure and therefore, seeks liberty of this Court to file an appeal.

As regards, the stay order, I am of the view that Section 9 of the Arbitration and Conciliation Act, 1996 enables the Court to protect the party from claiming amount of award subject to any terms and conditions, much less, protect adverse party in incurring element of interest.

Mr. Puduserry submits that in view of the order passed by the Executing Court subsequent to the attachment order for non-implementation, two contempt petitions are stated to be pending. On instructions from his client, he submits that he will deposit the amount

subject to furnishing of the bank guarantee of equal amount provided that contempt petitions are withdrawn. On instructions from his client, Mr. Chadha submits that his client would withdraw the contempt petitions provided that amount is deposited, as undertaken.

Accordingly, the amount aforementioned is ordered to be deposited before the Executing Court within a period of two weeks from today and the same shall be disbursed to the respondents subject to furnishing the bank guarantee of equal amount, much less, to the satisfaction of the executing Court. Liberty is also granted to the petitioner to withdraw the present revision petition and file an appeal against the order dated 26.10.2015. On deposit of amount, Account of the petitioner, which is stated to have attached, is ordered to be released. The moment amount is deposited, the respondents shall withdraw the contempt petitions.

With the aforementioned observations, revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

September 14, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No