

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

Civil Revision No.6974 of 2013

Date of decision: December 01, 2016

Jai Construction Company

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Chanderhas Yadav, Advocate for the petitioner.

Dr. Sushil Gautam, DAG, Haryana.

Rajan Gupta, J.

Present revision petition is directed against the order dated 10.07.2013, passed by Additional District Judge, Rohtak, vide which award dated 31.12.2010, passed by respondent No.3 was upheld.

Learned counsel for the petitioner has assailed the order. According to him, amended award of the Arbitrator dated 3.12.2013 is wrong, which has been passed without hearing the parties. He has submitted that award dated 3.10.2013 is justified, but the award dated 31.12.2010 is liable to be set aside. He has further submitted that while passing the impugned order, the Addl. District Judge has also failed to consider the aspect of high-handedness of the respondent authorities. Thus, the impugned order is liable to be set-aside.

Plea has been opposed by the learned State counsel. He has submitted that since petitioner has failed to prove any misconduct on the part of the Arbitrator, the award dated 31.12.2010 as well as order dated

10.7.2013, passed by Additional District Judge are just and legal and cannot be set-aside.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It appears, arbitration award was announced on 3.10.2003 by the Arbitrator-cum-S.E. Roads, Haryana PWD (B&R) Department, Chandigarh. The objections were filed against the award by the Executive Engineer, Provincial Division No.2, PWD (B&R), Rohtak before the Arbitrator and the Arbitrator announced amended award on 3.12.2003. Petitioner filed execution in the court of Addl. District Judge, Rohtak on 15.6.2005. Objections filed by respondent No.1 were dismissed on 27.9.2008. Against the said order, respondent State went in revision and this court disposed of the matter on 27.10.2009 by setting aside order dated 27.9.2008 as well as order dated 3.12.2003. Thereafter, Mr. Anup Chauhan, Superintending Engineer, PWD (B&R) was appointed as Arbitrator, who announced award on 31.12.2010, upholding the award dated 3.12.2003, passed by the Arbitrator. Against the said award, petitioner filed petition under Section 34 of the Arbitration and Conciliation Act, 1996, which has been dismissed by Additional District Judge, Rohtak by observing that petitioner had failed to prove any misconduct on the part of the Arbitrator. Aggrieved, petitioner has filed instant revision petition.

I find no infirmity with the orders passed. A perusal of record shows that award was announced on 3.10.2003 by Superintending Engineer, Roads. The Executive Engineer P-II, Rohtak moved an

application on 30.10.2003 for correction of an error regarding rate of interest as well as the period. Vide order dated 3.12.2003, the Arbitrator made necessary corrections in award dated 3.10.2003. Thus, the Superintending Engineer (Buildings)-cum-Arbitrator, who was appointed as per orders of this court, vide order dated 31.12.2010, upheld the award dated 3.12.2003 and rejected the claim of the petitioner. Against the order dated 31.12.2010, petitioner filed petition under section 34 of the Arbitration and Conciliation Act, 1996, which was dismissed by Additional District Judge, Rohtak on 10.7.2013 being not maintainable. In my considered view, correction was rightly carried out in award dated 3.10.2003 and same was rightly upheld by the Arbitrator as well as the court below. Moreover, in view of order passed by this court, the Arbitrator had to pass a fresh order after hearing the parties. Since petitioner has failed to prove any misconduct on the part of the Arbitrator, the award dated 31.12.2010 cannot be set-aside. The revision petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

December 01, 2016
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No