

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 7650 of 2015

Date of Decision: 17.05.2016

M/s Kandowali Co-op. L&C Society Ltd.

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. P.S.Rana Advocate
for the petitioner(s).

Mr. B.S.Sra, Additional Advocate General,
Punjab for the respondent(s).

Shekher Dhawan, J.

Petition petition under Article 227 of the Constitution of India for quashing of order dated 10.7.2015, passed by learned Additional District Judge, Amritsar that Superintending Engineer, Drainage Circle, Amritsar has been appointed as Arbitrator after terminating the mandate of respondent No.3-Superintending Engineer, Drainage Circle, Amritsar and the said order is illegal, without jurisdiction, against law and without any basis.

Learned counsel for the petitioner submitted that work order was allotted to the petitioner and petitioner executed the complete work but full payment was not made despite repeated requests and reminders. A sum of ₹ 22,39,315/- is still payable to the petitioner. As per condition No.10 of the tender, forming part of the record, in case of any dispute the matter was to be referred to the Superintending Engineer, Drainage Circle, Amritsar. As there was dispute between the parties, the matter was referred to the Arbitrator. But the Arbitrator failed to settle the claim and entered upon the reference. Despite legal notice dated 21.4.2010, as respondent No.3 failed to enter upon the reference, he could not act as Arbitrator and an application under Section 14 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as "the Act") was filed and the same was allowed. Learned counsel for the petitioner also submitted that the Court below rightly held that mandate Arbitrator was terminated as the Arbitrator failed to enter upon the reference and decided the same without undue delay. However, while granting relief under issue No. 3, the Court below wrongly appointed the same Arbitrator, who adjudicated upon the dispute and reference and prayed that the impugned order be set aside to that extent.

Learned State counsel submitted that present petition is not maintainable because contention of the petitioner has already been decided and new Arbitrator has been appointed by the Court below as per order dated 10.7.2015. Now the earlier Superintending Engineer, Drainage Circle, Amritsar has already been transferred and the Court

below has already appointed current Superintending Engineer, Drainage Circle, Amritsar as Arbitrator and present petition is without any merit and the same be dismissed.

Having considered the submissions made by learned counsel for the parties and appraisal of the record of the case, this Court is of the considered view that most of the facts are not disputed that there was some dispute between the parties regarding payment and matter was referred to the Arbitrator. Thereafter, petitioner had filed an application for change of the Arbitrator on the ground that Arbitrator failed to perform and that contention was accepted by the Court below. The next contention of the petitioner was for appointment of fresh Arbitrator and even that request stood accepted because earlier Arbitrator i.e. Superintending Engineer, Drainage Circle, Amritsar, before whom arbitration proceedings were pending, stood transferred and the Court below has already passed the order that **current Superintending Engineer, Drainage Circle, Amritsar is appointed to adjudicate the dispute in question between the parties**. Hence, there is no ground to interfere with the said order.

Consequently, present petition is without any merit and the same is hereby dismissed.

(Shekher Dhawan)
Judge

May 17, 2016

"DK"