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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 30.11.2016

1.

FAO-3604-2003

Hindustan Machine Tools Ltd. And others

... Appellants

Versus

Amrit Grewal and others

... Respondents

2.

FAO-2620-2004

Amrit Grewal and others

... Appellant

Versus

Hindustan Machine Tools Ltd. And others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. P.S. Rana, Advocate
for the appellant(s) in FAO-3604-2003 and
for the respondent(s) in FAO-2620-2004.

Mr. Sanjeev Sharma, Senior Advocate with
Mr. Vikram Vir Sharda, Advocate
for the respondent(s) in FAO-3604-2003 and
for the appellant(s) in FAO-2620-2004.

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of two appeals bearing **FAO No.3604 of 2003** titled as **“Hindustan Machine Tools Ltd. And others V/s Amrit Grewal and others”** at the instance of the appellant(s)-HMT Ltd. and **FAO No.2620 of 2004** titled as **“Amrit Grewal and others V/s Hindustan Machine Tools Ltd. And others”**. at the instance of the Award holder-the

owner of the SCO No.1062-1063, Ground Floor, Sector 22, Chandigarh.

Mr. P.S. Rana, learned counsel appearing on behalf of the appellant(s) in FAO-3604-2003 and for the respondent(s) in FAO-2620-2004, submits that on 10.09.1980, lease dated in respect of aforementioned SCO, was executed for a period of five years @ ₹ 3500 per month w.e.f. 20.02.1980 (Ex.C/2). The respondent(s) issued a notice under Section 106 of the Transfer of Property Act on 16.04.1994 (Ex.C-3). The civil suit for ejectment, on 12.06.1984, was filed as the property was exempted from the applicability of the Rent Act and sewerage connection was granted in the year 1979. The application, in the aforementioned proceedings, was filed for referring the matter, ultimately the matter was referred to the Arbitrator. The claim, before the Arbitrator in the year 2000, was *ex facie* barred by law of limitation. The Arbitrator has erroneously granted the usage and occupation charges to the tune of ₹ 31,69,092.75 along with interest @ 18% to the tune of ₹ 20,49,932.78 and ₹ 15,000/- towards damages and ₹ 10,000/- as litigation charges. The objections filed before the Objecting Court have been partly allowed, in essence, the interest rate from 18% has been reduced to 9%. The Arbitrator did not have the jurisdiction to order for eviction in view of the *ratio decidendi* culled out by the Hon'ble Supreme Court in **"Booz Allen & Hamilton Inc. V/s SBI Home Finance Ltd.", (2011) 5 SCC 532**, therefore, the award suffers from a jurisdictional error and liable to be set aside.

Per contra, Mr. Sanjeev Sharma, learned Senior Counsel assisted by Mr. Vikram Vir Sharda, learned counsel appearing on behalf of the respondent(s) in FAO-3604-2003 and for the appellant(s) in FAO-

2620-2004, submits that there is very limited scope for interference in view of the law laid down by the Hon'ble Supreme Court in “Associate Builders Vs. Delhi Development Authority” (2015) 3 SCC 49 and the Court cannot re-appreciate the evidence in view of the *ratio decidendi* culled out by the Hon'ble Supreme Court “Navodaya Mass Entertainment Ltd. Vs. J. M. Combines” (2015) 5 SCC 698. The Rent Act was not applicable at the time of filing of the suit, therefore, the objection qua jurisdiction of the Arbitrator is wholly misplaced, rather urges that the Objecting Court ought not to have reduced the interest as statutorily the claimant is entitled to interest @ 18% in view of the provisions of sub-Section 7 of Section 31 of the Arbitration and Conciliation Act, 1996.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no merit and force in the aforementioned appeals. The Award is perfect, legal and justified and the order of the Objecting Court reducing the interest is as per the peculiar facts and circumstances of the case.

As regard the jurisdiction of the Arbitrator, I am of the view that the suit admittedly was filed on 12.06.1984, whereas sewerage certificate is of 1979. There was an exemption from the applicability of the Rent Act for a period of 5 years. In view of the aforementioned facts, the protection under the East Punjab Urban Rent Restriction Act, 1949 as then the applicable could not have been taken by the appellant(s). The interest element has already been taken care and it reduced to 9%, therefore, I do not intend to differ with the same. I cannot re-appreciate the evidence, even if the different opinion has to be found, until and unless, there is a patent

illegality which has been brought within the ambit of expression “Public Policy” in view of the *ratio decidendi* culled out by the Hon'ble Supreme Court in “National Highways Authority of India V/s Cementation India Ltd.” 2015 (3) RAJ 1.

For the foregoing reasons, I do not find any illegality and perversity in the findings under challenge, much less, no ground is made out for interference and accordingly, the appeals are dismissed.

30.11.2016
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No