

791

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

**FAO-4954-2006 (O&M)
Date of decision : 10.02.2016**

State of Haryana

...Appellant

Versus

Satish Bhatia and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vishal Garg, Addl. A.G., Haryana
for the appellant.

Mr. Naresh Markanda, Senior Advocate with
Ms. Kavita Markanda, Advocate
for the respondents.

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

AMIT RAWAL, J. (ORAL)

The appellant is aggrieved of the dismissal of the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter called 'the 1996 Act') seeking setting aside the Award dated 17.02.2001.

Mr. Vishal Garg, Addl. A.G., Haryana, submits that after the completion of the work, full and final payment was

made after receipt of the final bill. The contractor was estopped to raise the dispute in pursuance to the arbitration clause, in essence, the agreement entered into between the Contractor and the State, ceased to exist. There was no contract in the eyes of law and therefore, the matter on alleged dispute could not have been referred to the arbitration. The Arbitrator did not have the jurisdiction to try and entertain the claim. However, the aforementioned facts specifically raised in the objections, have not been noticed by the Objecting Court, thus, the objections were within the parameters of Section 34 of the 1996 Act.

Mr. Naresh Markanda, learned Senior Counsel assisted by Ms. Kavita Markanda, learned counsel appearing on behalf of the respondent No.1, submits that there is no estoppel of seeking resolution of dispute, in case, the dispute subsists despite receipt of full and final payment. In support of his contentions, he relies upon the two judgments of Hon'ble Supreme Court of India in **"Chairman and MD, NTPC, Ltd V/s Reshmi Constructions, Builders and Contractors" 2004 (2) SC 663** and in **"National Insurance Company Ltd. V/s M/s Boghara Polyfab Pvt. Ltd." AIR 2009 (1) SC 170.**

I have heard the learned counsel for the parties and appraised the paper book.

As per the ratio culled out in the judgments cited on behalf of Mr. Naresh Markanda, it is a settled law that even if the

full and final payment has been made without prejudice, the Contractor can claim the resolution of dispute through Arbitrator by invoking the arbitration clause, claiming the balance payment. There is no force in the arguments made by Mr. Vishal Garg, Addl. A.G., Haryana. The aforementioned objections, in my view, were not falling within the parameters of Section 34 of the 1996 Act as the Award cannot be said to have been passed against the public policy.

Keeping in view the aforementioned facts, no ground is made out for interference, accordingly, the Award of the Arbitrator is upheld.

With the aforementioned observations, the appeal is dismissed.

10.02.2016
yogesh

(AMIT RAWAL)
JUDGE