

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.2320 of 2015 (O&M)

Date of decision : February 23, 2016

Nishi Bhargava and others

.....Appellants

Versus

Riteshwar Bhargava and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vivek Khatri, Advocate
for the appellants.

Mr. Anurag Jain, Advocate
for respondent No.2.

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 order dated 10.2.2015 whereby the petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') for setting aside of the award dated 23.2.1999 has been dismissed.

Mr. Vivek Khatri, learned counsel appearing on behalf of the appellant submits that terms and conditions of the contract between the parties are sacrosanct. In case of dispute, the same was referred to be adjudicated through appointment of an arbitrator. The award of the arbitrator is lacking reasons, therefore the objections were filed (falling within the realm of Section 34 of the

Act).

Mr. Anurag Jain, learned counsel appearing on behalf of respondent No.2 submits that there is admission of claim of the petitioner. Even otherwise, award only confirms declaration viz-a-viz ownership qua share of the parties to the *lis*. The award is based upon admitted written statement, therefore, successor-in-interest of the respondent before the arbitrator cannot take a different stand than what has been taken by the deceased.

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

The operative portion of the award reads thus:-

The 1st meeting in this regard was held in my Chamber No.294 District Courts, Hisar. On that day Mr. Riteshwar Bhargava along with his counsel appeared and submitted the petition. After going through the Deed of family settlement I accepted the filing of petition. On 21.4.1998 the notices were issued to the respondents. After receiving notice the respondents along with their counsel appeared before me. Their counsel Shri R.S. Kundu, Advocate, Hisar, submitted his vakalatnama on behalf of the respondents along with photostatic copy of GPA dated 18.9.1997. On 21.6.1998 the respondents filed their reply admitting the existence of the Deed of family settlement Ex. P.3 and also admitting the claim of the petitioner. On the same day the statement of the parties were also recorded. Shri Gyaneshwar Bhargava, respondent No.2 was being represented through his General Attorney and mother Smt. Krishna Bhargava, respondent No.1.

In her statement Mrs. Bhargava, on oath stated that she was General Attorney of respondent No.2, Shri Gyaneshwar Bhargava through Regd. Deed of Attorney dated 18.9.1997 which is Ex. D.1. She made statement on her behalf and on behalf of the respondent No.2. She admitted the execution of Deed of family settlement Ex.P.2 and also the site plan Ex.P.3 attached with the Deed of family settlement. She also stated that she had no objection if the dispute was going to be solved as per Ex.P-2.

In this statement Shri Diveshwar Bhargava also admitted the execution of Deed of family settlement and also stated that he had no objection if the dispute was solved as per Deed of family settlement Ex. P.2. The statement on the same line was also given by the petitioner Shri Riteshwar Bhargava.

Award

As per the written statement of the opposite parties and their statements on oath admitting the claim of the applicant, the parties are not at issue. Therefore, I am left with no other alternative except to accept the present Arbitration petition. The award is announced to this effect that the parties to the petition are the owners in possession of their shares as detailed in the Deed of family settlement dated 23.11.1997 (Ex.P-2) and the site plan Ex.P-3.

This award is made on the stamp paper of Rs.115/- and is being registered along with site plan Ex.P-3 with the Sub Registrar, Hisar.

The original Award, the exhibits and the record of proceedings are retained in file and shall be sent to the court if and when required.

Announced on 10.7.1998.”

In view of the aforementioned observations, I am of the view that no scope has been left for challenging the award under Section 34 of the Act, as passed on the basis of consent, thus objections were not within the realm of Section 34 of the Act.

There is no substance in the appeal. The order has perfectly been passed. No ground for interference has been made out.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 23, 2016
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