

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 2430 of 2015(O&M)
Date of decision : January 29, 2016

Punjab State Civil Supplies Corporation Ltd. and another
..... Appellants
Versus

M/s Dev Raj Sethi Rice Mills and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Daman Dhir , Advocate
for the appellants.

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).
CM No. 7589-CII of 2015

This is an application under Section 151 CPC seeking condonation of delay in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 37 days in refiling the appeal is condoned.

The application stands disposed of.

FAO No. 2430 of 2015(O&M)

PUNSUP is aggrieved of the order dated 23.8.2014 whereby the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 seeking setting aside of the award dated 29.11.2011 has been dismissed.

Learned counsel for the appellants submits that originally the claim was to the tune of ₹13,89,163/- which was later on after taking out the amount of driage was amended to ₹7,39,498/- on 30.9.2002 and taking into consideration deposit of ₹5,80,070/- by the respondent, the arbitrator has only awarded a sum of ₹1,75,964/-, thus, there is illegality and perversity in the impugned order. This fact has not been noticed by the objecting court and prays for setting aside of the award as well as order under challenge.

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

The award of the arbitrator is based upon the calculations. This court cannot sit in appeal to calculate the amount. The arbitrator has arrived at a finding after noticing the payments made by the miller and calculated the amount due from the miller as ₹1,75,964/-.

It is now a settled law that as to under what circumstances the award has to be interfered with. The question which has now been raised in the aforementioned appeal has already been answered by the Hon'ble Supreme Court in catena of judgments wherein it has been laid down that until and unless the award suffers from illegality as statutorily prescribed under Section 31 (3) of the Act, the same cannot be interfered with. In this context I intend to refer the judgments of Hon'ble Supreme Court in **Associate Builders Vs. Delhi Development Authority (2015) 3 SCC 49 and Navodaya Mass Entertainment Ltd. J. M. Combines (2015) 5 SCC 698.** In the aforementioned judgment the Hon'ble Supreme Court

had culled out the ratio decidendi by holding that until and unless there is error apparent on the face of record or the arbitrator has not followed statutory legal position, it is only in these circumstances it would be justified interfering with the award. The High Court should not act as a Court of appeal and reappraise the material/evidence and embarked on a path by substitution in its own view. The Arbitrator has dealt with the dispute which was contemplated and was within the scope of it.

It is now a settled law that the Arbitrator is the sole judge of quality and quantity of the evidence before him and decide on the basis of the available evidence.

In my view, no error of law arise from the award. The award is perfect and justified and all the objections filed against the same were wholly misconceived.

There is no merit in the aforementioned appeal.

The appeal is accordingly dismissed.

(AMIT RAWAL)
JUDGE

January 29 , 2016
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