

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.2382 of 2016 (O&M)

Date of decision:27.04.2016

State of Punjab and others

... Appellants

Vs.

M/s S.P.Singla Constructions Private Limited
& others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Piyush Bansal, DAG, Punjab
for the appellants.

AMIT RAWAL J. (Oral)

The appellants-State is aggrieved of the impugned order dated 15.12.2015, whereby, the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "1996 Act") after remanding the matter back by this Court, vide judgment dated 18.08.2015 passed in FAO No.2755 of 2015 titled as State of Punjab and others vs. M/s S.P. Singla Constructions Private Limited, Sector 9, Panchkula and others, whereby, Objecting Court called upon to decide the objections No.5 and 9, have been dismissed.

Mr. Piyush Bansal, learned Deputy Advocate General, Punjab appearing on behalf of the appellants-State submits that the Arbitrator has erroneously entertained the claim No.1 and 5 by

awarding a sum of ₹28.50 lacs and ₹57.91 lacs on account of alleged delay. He further submits that a contract dated 07.09.2006 was entered into between the appellant and the contractor for construction of railway line over bridge. The Railway Authorities were required to raise construction the portion existing above the railway lines, whereas, role and work of the contractor was of the remaining portion of the bridge. Owing to the lapse on the part of Railway Authorities, delay occurred which cannot be attributed to the State of Punjab, but yet, Arbitrator has interpreted the terms and conditions of the agreement in awarding the escalation charges to the claimant/contractor. However, the Objecting Court reiterated the findings rendered by the Arbitrator qua claim Nos.1 and 5 which were objected to in the objections No.5 and 9 and, thus, urges this Court for setting aside of the award, much less, the findings rendered by the Objecting Court.

I have heard learned counsel for the appellants and appraised the paper book and of the view that State of Punjab ought to have been placed on record the material to show and prove that they had been diligently pursuing the matter with the Railway Authorities for completion of the construction of the portion above the railway lines. Had that material been placed on record, perhaps this Court, much less, the Arbitrator, would have had an occasion to deal with the matter and may have arrived at finding in favour of the State. In the absence of the same, I am of the view that Arbitrator rightly

interpreted the terms and conditions of the agreement in awarding the escalation charges to the claimant/contractor.

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. Vs. 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.

In my view the award of the Arbitrator does not suffer from any illegality, in as much as, the Arbitrator who is expert has dealt with the matter and decided the claim of respective claimants to the

parties to the *lis*.

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 as well as order impugned. The award is perfect and justified.

There is no merit in the aforementioned appeal.

The appeal is accordingly dismissed.

(AMIT RAWAL)
JUDGE

April 27, 2016
savita