

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 8431 of 2015 (O&M)
Date of decision : February 11, 2016

Sanjay Gupta

..... Appellant

Versus

Ashwani Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Arun Bansal, Advocate
for the petitioner.

Ms. Deepali Puri, 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 against the order of the objecting court whereby the objections alleged to have been filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') seeking setting aside of the award has been dismissed on the ground of limitation.

Learned counsel appearing on behalf of the appellant submits that the award ex-facie is not in consonance with the provisions of Section 28, 30 and 31 of the Act. In essence, in one hearing the arbitration proceedings have culminated into an award, much less all the arbitrators have not signed the award and this aspect has totally been brushed aside by the objecting court while dismissing the objections filed under Section 34 of the Act.

Learned counsel appearing on behalf of the respondents submits that the award is sustainable in the eyes of law and there is no illegality and perversity in the same. The objections are not falling within the purview of Section 34 of the Act and prays for dismissal of the appeal.

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

On perusal of the award, it is apparent that all the arbitrators have not signed the award. It has been brought to the notice of the court that the arbitrators are withholding the record of the arbitration proceedings.

The parties are ad idem that the matter be referred to an independent arbitrator.

Accordingly, the impugned order of the objecting court and award are set aside. Since the parties have voluntarily agreed for appointment of an independent arbitrator, I appoint Mr. D. R. Bansal, retired Additional District and Sessions Judge as an Arbitrator.

Letter of consent be sent to Mr. D. R. Bansal, retired Additional District and Sessions Judge. On receipt of the consent, he will call upon the parties to enter into reference. The arbitration proceedings shall be held at Arbitration and Conciliation Centre, Sector 17, Chandigarh and fee would also be charged as per prevalent rules.

Defendant Nos. 2 to 6 are directed to hand over copy of the record to Mr. D. R. Bansal.

With the aforementioned observations the appeal stands disposed of.

(AMIT RAWAL)
JUDGE

February 11 , 2016
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