

IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL UNDER ARBITRATION ACT NO. 4 OF 2013

BOARD OF TRUSTEES OF THE PORT OF
MORMUGAO

incorporated and registered (under
the provisions of Major Port Trusts Act, 1963)
having its office at Hedland, Sada, Goa.

... Appellant

Versus

SHRI. DINKAR ULLAL,
s/o late Chandappa, 54 years,
married, business as Sole
Proprietor,
M/s. Devchand Constructions,
a proprietorship concern,
Thokkottu, Permanur Post,
Mangalore, Karnatawka – 575 017.

... Respondent

Mr. Yogesh V. Nadkarni with Adv. Ms. D. Shirgam and Ms. P. Kale for the
Appellant.

Mr. N. Sardesai, Senior Advocate with Advocates Mr. V. Amonkar, Ms. N.
Shirodkar and Ms. Gautami Kakodkar for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 23rd February, 2017.

JUDGMENT:

Heard Shri Y.V. Nadkarni, the learned counsel for the appellant and
Shri N. Sardesai, the learned Senior Counsel for the respondent.

2. The main contention on behalf of the appellant is that the impugned
judgment does not set out any reason, worth the name, while setting aside the

award of the Arbitrator. It is submitted that the operative part of the impugned judgment only sets aside a part of the arbitral award refusing to grant interest without there being any specific order on the award of the principal amount claimed in Clauses 10 (a), (c) and (e). It is submitted that the interest could not have been awarded in the absence of the award of the principal amount.

3. The learned counsel for the appellant therefore states that the matter will have to be remanded back for deciding it afresh in accordance with law.

4. Shri Sardesai, the learned Senior Counsel for the respondent has no objection for the same.

5. I have gone through the impugned judgment and more particularly, para 46 onwards and the operative order passed.

6. It appears that the Arbitrator had dismissed the claim in its entirety. The operative order shows that only a part of the award refusing to grant interest has been set aside.

7. I find that it would be appropriate that the Arbitration application is sent back to the learned District Court.

8. In such circumstances, the following order is passed by consent of

parties:

Order:

- (i) The appeal is partly allowed. The impugned judgment and order dated 9/7/2013 is hereby set aside.
- (ii) Arbitration Application no.1/2011 is restored back to the file of the learned District Judge at ^{Margao}~~Mapusa~~ for disposal according to law.
- (iii) Rival contentions of the parties are left open.
- (iv) Parties to appear before the learned District Judge on 14/3/2017 at 10a.m.
- (v) In the circumstances there shall be no order as to costs.

C. V. BHADANG, J.

ap/-

Correction
carried out as
per order dtd.
10.3.2017