

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

ARBITRATION PETITION NO. 953 OF 2013

Union of India

...Petitioner

vs

M/s.Multition Equipment Pvt.Ltd. & Anr.

...Respondents

Mr.Y.S. Bhate with M.R. Prajapati for Petitioner.

Mr.Abhay Patki for Respondent No.1.

CORAM : S.C.GUPTE, J.

DATE : 3 DECEMBER 2018

P.C. :

Heard learned Counsel for the parties.

2 This arbitration petition challenges an award passed by a sole arbitrator. The disputes between the parties arise out of a contract for installation of Over Head Crane / EOT Crane on Patent Slipway at Naval Dockyard in Mumbai. The contract was for a total sum of Rs.40,53,000/-. The date of commencement was 12 November 2007. Whereas the original date of completion was 11 August 2008, the contract period was admittedly extended. Eventually, the contract was cancelled by the Petitioner herein on 28 May 2009. The Respondent herein, who was the contractor and claimant before the arbitral tribunal, made a claim for loss on account of manufacture of the crane (claim no.1), loss of profit resulting from cancellation of the contract (claim no.2) and costs of arbitration (claim No.3). The Union of India made counter claims on account of compensation due to delay in completion of work (claim no.1) and costs of reference (claim no.2). The learned arbitrator, by his award, allowed partly

the Respondent's claim (claim no.1) and rejected the other claims. The award is challenged by the Petitioner mainly on the ground of non-consideration of some material and non-appreciation of evidence. Grounds (b), (c) and (d) of the arbitration petition deal with the Petitioner's case in this behalf.

3 So far as claim no.1 of the Respondent is concerned, the learned arbitrator came to a conclusion that there was no convincing reason why Union of India cancelled the contract and did not grant any extension, since there was an abnormal delay in handing over the site. The learned arbitrator found that the Respondent had completed manufacture of various components of the crane in its workshop by the time the Petitioner terminated the contract; the Petitioner was in full knowledge of the actual progress made by the Respondent in this behalf. The learned arbitrator found merit in the Respondent's case on the basis of evidence of various reports prepared of the visits and inspection by the Petitioner's own officials, photographic record submitted to the Petitioner as also verification certificate issued by the chartered accountant, including copies of all bills and vouchers in support. The learned arbitrator observed that it was established beyond doubt that the Petitioner's action in terminating the contract was neither valid from the stand point of contractual considerations nor from any legal stand point. The conclusions of the learned arbitrator cannot be said to be based on no evidence. They are indeed supported by some evidence on record. The learned arbitrator, whilst arriving at the award, has not disregarded any relevant material or circumstance or considered any irrelevant or non-germane material or circumstance. The award certainly exhibits a possible view on the material

placed before the learned arbitrator. Whether or not intimation of fixing of the second gantry girder was given to the Respondent on the date stated by the Petitioner, is clearly a matter of evidence. The arbitrator's conclusion, in this behalf, cannot be faulted on the ground that he has failed to appreciate the evidence in a proper prospective. The award, in other words, cannot be said to be either in contravention of public policy of India or on account of a patent illegality appearing on the face of the award.

4 There is, thus, no merit in the arbitration petition. The petition is dismissed. No order as to costs.

(S.C. GUPTE, J.)