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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 149 of 2012 (O/M)
Date of decision : 3.5.2018

State of Haryana and another

..... Petitioners

Versus

M.s Monika Plastic (P) Ltd. and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. A.K. Saini, DAG Haryana,
for petitioners.

Mr. Rupam Jain, Advocate,
for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Impugned in present revision is judgment and decree dated 1.3.2008 (Annexure-P-1), passed by learned Civil Judge (Senior Division), Chandigarh, whereby award dated 9.1.1999 was made rule of Court. Also impugned is judgment dated 7.9.2011 (Annexure-P-3), passed by learned Additional District Judge, Chandigarh, vide which judgment and decree of learned Civil Judge (Senior Division), Chandigarh, was affirmed.

I have heard the learned State counsel appearing for petitioners and have also considered the case of respondents.

The short controversy raised before this Court is that in this case new Arbitration and Conciliation Act, 1996, (hereinafter called as 'New Act') will apply. However, trial Court made the award rule of the Court under Indian Arbitration Act, 1940, (hereinafter called as 'Old Act'). The controversy was considered by both the Courts below. In this case, the

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agreement is of year 1991. The first award was passed on 15.1.1993 and was set aside by Court. Thereafter, State of Haryana appointed another arbitrator who gave award on 9.1.1999. Both the Courts below have relied upon Section 85 of the New Act which deals with repeal and savings. Section 85 (2) (a) clearly saves cases where arbitration proceedings, which commenced before this Act came into force unless otherwise agreed by parties. In this case, arbitration proceedings had initially commenced sometime before 1993 and proceedings before the new arbitrator were continuation of earlier proceedings. The arbitrator was required just to give fresh award.

The learned State counsel appearing for petitioners has argued that new arbitrator was appointed on 2.4.1997, therefore, New Act will apply. However, arbitration proceedings had already commenced when matter was referred to arbitrator and appointment of arbitrator would not mean that arbitration proceedings had started from the date of his appointment. Arbitration proceedings are initiated once matter is referred to arbitrator for the first time. It being so, there is no illegality or infirmity in judgments of both the Courts below. Consequently, revision is dismissed. Since main case has been dismissed, therefore, pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

3.5.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No

Sanjiv Kumar Sharma
2018.05.11 12:07
I attest to the accuracy and
authenticity of this document