

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. CR No.381 of 2018
Date of decision : 19.01.2018

Equipment Conductors and Cables Limited

...Petitioner

Versus

Transmission Corporation of Andhra Pradesh Limited and another

...Respondents

2. CR No.382 of 2018
Date of decision : 19.01.2018

Equipment Conductors and Cables Limited

...Petitioner

Versus

Transmission Corporation of Andhra Pradesh Limited and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dheeraj Gupta, Advocate and
Mr. Munish Kumar Garg, Advocate for the petitioner.

ANIL KSHETARPAL, J.

By this order, I shall be disposing of CR Nos.381 and 382 of
2018, as common issue arises.

The petitioner has filed these revision petitions under Article
227 of the Constitution of India against the order passed by the learned

Additional District Judge, Chandigarh dated 06.01.2018 dismissing the application filed by the petitioner.

In the considered opinion of this Court, the application and the revision petitions filed by the petitioner-company is a gross abuse of the process of the Court. The petitioner-company is not permitting the Competent Court to finally adjudicate upon the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 for the last more than 4 years. In the present case, award was announced on 21.06.2010. After passing of the award, both the parties have filed their objections.

It is the case of the petitioner that as per the provisions of Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006, prior deposit of 75% of the amount awarded by the Arbitrator is a pre-condition for entertaining the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996. The respondent has already deposited 75% of the amount as assessed by the Court. However, the petitioner insists that the amount must be calculated alongwith compound interest till the amount was deposited in the Court. It is admitted position on the record that the respondent had deposited substantial amount in the year 2010. Previously objection to the same effect was also filed in the year 2010.

Learned Additional District Judge vide detailed order dated 04.09.2017 adjudicated upon this issue. Against the aforesaid order, two revision petitions were preferred by the petitioner-company i.e. CR Nos.6892 and 6897 of 2017. These revision petitions were dismissed by this Court with costs of ₹1,00,000/- vide order dated 11.10.2017. The relevant

part of the order is extracted as under:-

“It may be noticed here that the objections were filed in the year 2010. The respondents had deposited the substantial amount in the year 2010. It is further significant to note here that the entire arbitration award is only with respect to the interest on delayed payment.

I have considered the submissions of the learned counsel.

It is a case where the Decree Holder rather than being interested in disposal of the case is more interested in prolonging it. The award was passed in June, 2010. More than 7 years has elapsed. However, the Court is not allowed to adjudicate upon the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996. A reading of Section 19 clearly says that before entertaining the application for setting aside the award, the appellant shall be required to deposit 75% of the amount in terms of the award. In the present case, in terms of award, 75% of the amount has been directed to deposited. The Act does not provide that the amount is to be calculated till the deposit is complete by adding the compound interest on interest. Section 19 lays down a pre-condition for entertaining the application for setting aside the award. The Court at that stage is not to finally adjudicate upon as to what is the amount payable on that day.

As noticed earlier, even the original award only consists of component of interest payable on delayed payment. The payment for the various invoices had been cleared but there was some delay in clearing the payment. The Arbitration Council, therefore, passed a considered award.

In these circumstances, I do not find any good ground to interfere with the detailed order passed by the learned

Additional District Judge, Chandigarh.

Both the revision petitions are dismissed with costs of ₹1,00,000/-.

All the pending miscellaneous applications are disposed of, in view of abovesaid judgment.”

Against the aforesaid order passed by this Court, the petitioner filed a Special Leave to Appeal before the Hon'ble Supreme Court, which was disposed of by following order:-

“Having heard Mr. Guru Krishna Kumar, learned senior counsel for the petitioner at length, we are only inclined to direct the Additional District Judge, Chandigarh to dispose of Arbitration Case No.580 of 2010 within ten weeks hence, and report compliance to the Registry of this Court.

Needless to say that all contentions including the contention of quantum of amount and interest raised by the petitioner are kept open.

The costs imposed by the High Court are made easy.

The special leave petition is disposed of accordingly.”

However, still petitioner-company rather permitting the Additional District Judge to dispose of the arbitration case, filed yet another application complaining that the deposit in terms of Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006, has not been made. Learned trial Court once again dismissed the application after noticing the facts.

Now these revision petitions have been filed.

In the considered opinion of this Court, second application filed by the petitioner was not maintainable. Once the Court had adjudicated

upon the issue of pre-deposit vide order dated 04.09.2017 which had been affirmed by this Court and Hon'ble Supreme Court had declined to interfere, no fresh application was maintainable.

Learned counsel for the petitioner has submitted that Hon'ble the Supreme Court had granted the permission to the petitioner to file a fresh application. I am afraid that the contention is wholly mis-conceived. Hon'ble Supreme Court had only directed the Additional District Judge, Chandigarh to dispose of the main arbitration case within ten weeks and report compliance to the Registry of the Hon'ble Supreme Court. Hon'ble Supreme Court had only observed that all contentions including the contention regarding quantum of amount and the interest as contended by the petitioner are kept open. Such observation made does not give right to the petitioner to file a fresh application.

In view of the discussions made above, subsequent application filed by the petitioner is frivolous and abusing the process of the Court. Hence, both the revision petitions are dismissed with costs of ₹2,00,000/- to be deposited with the Haryana State Legal Services Authority. The petitioner shall produce the receipt of the deposit before the trial Court.

19.01.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No