

Civil Revision No.429 of 2018 (O&M)

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

Civil Revision No.429 of 2018 (O&M)

Date of decision: 22.01.2018

State of Punjab and others

.....Petitioners

versus

Subhash Chander Garg

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Ms. Gulnoor Ghuman, AAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through the instant revision petition, the State of Punjab has assailed the order dated 18.07.2017 (Annexure P-1) of the learned Additional District Judge, Ferozepur, accepting the application of the respondent (hereinafter referred to as the 'contractor') under Section 14 of the Arbitration and Conciliation Act (hereinafter referred to as the 'Act') whereby mandate of the sole arbitrator/respondent No.3 stood terminated.

Put pithily, on allotment of construction work of circuit house at Ferozepur to the contractor on 15.04.1995, according to the agreement, having arbitration clause, same was to be completed within ten months i.e. by 14.02.1996. However, the work could not be completed within stipulated period aforesaid, therefore, the contractor requested for extension of time, but without acceding to his request, the petitioners closed the contract on 07.05.2004 without final settlement. Since the claim of the contractor remained unsettled, therefore, he requested the petitioners to appoint arbitrator to adjudicate the matter in dispute amongst them along

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with his claims. Petitioner No.2 refused to receive the claims, therefore, the contractor vide his letter dated 30.04.2007 (Annexure A3) sent his claims to him and to the sole arbitrator vide his letter dated 02.05.2017 (Annexure A4) by speed posts.

Since the sole arbitrator did not take any action upon the claims of the contractor, therefore, the contractor got served legal notice dated 06.11.2007 (Annexure A5) upon the sole arbitrator to immediately enter upon the reference and decide the claims raised vide claim petition dated 30.04.2007 as early as possible. Despite that the arbitrator did not enter upon the reference.

Therefore, the contractor approached learned District Judge at Ferozepur under Section 14 of the Act for declaration that mandate of the sole arbitrator i.e. respondent No.3 stood terminated.

Learned Additional District Judge vide order dated 08.05.2014 dismissed the application of the contractor with costs.

Being aggrieved, the contractor approached this Court by way of Civil Revision No.5450 of 2014, which was accepted vide order dated 08.05.2014 remitting the matter to the District Judge for adjudication afresh.

Consequently, learned Additional District Judge again proceeded with the application of the contractor under Section 14 of the Act and after holding trial and deciding issues No.1 and 2 in favour of the contractor accepted his application for declaration to the effect that mandate of the sole arbitrator-respondent No.3 stood terminated, he being failed to act without any undue delay to adjudicate the dispute amongst the parties vide impugned judgment dated 18.07.2017.

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months, but he filed the same after more than three years. Even otherwise, the respondent-claimant once has accepted the entire payment without any protest, therefore, his claims, if any, and application under Section 14 of the Act were not maintainable before the learned Additional District Judge.

Having given thoughtful consideration to the submissions made by learned State counsel, I find the instant petition completely devoid of any merit for the reasons to follow.

Undisputedly, the work allotted to the contractor on 15.04.1995 was to be completed within ten months i.e. by 14.02.1996, which he did not complete. According to the contractor, he could not complete the work in time on account of some delay and laches of the petitioners and they have wrongly terminated the contract. Finally, his contract was closed on 07.05.2004 against which the contractor approached the petitioners to appoint an arbitrator submitting his claim and when the same was not accepted, he sent his claims through speed post along with letter dated 30.04.2007 (Annexure A3) and also to the sole arbitrator vide letter dated 02.05.2007 (Annexure A4).

The question of limitation and the controversy as to whether the contractor was not legally entitled to raise any claim after receipt of alleged full and final settlement were the matters in dispute falling exclusively to the domain of the arbitrator, who despite repeated requests till passing of the impugned order never acted upon or in other words remained silent throughout on account of which the disputes amongst the parties and claims of the contractor, if any, remained undecided.

The State machinery cannot be permitted to raise the issues which fall within the exclusive domain of the arbitrator, who only could deal with the point of limitation and maintainability of the claim of the

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respondent after receipt of alleged full and final payment by him.

I have gone through the impugned order and find no illegality or perversity in the same. Hence the revision petition is dismissed.

January 22, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.