

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

FAO No.1977 of 2018 (O&M)

Date of decision: August 06, 2018

Haryana State Warehousing Corporation ... Appellant

Versus

M/s G.C. Builders and another ... Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Lekh Raj Sharma, Advocate for the appellant.

Rajan Gupta, J.

Present appeal is directed against the judgment dated 21.08.2017, passed by Additional District Judge, Panchkula, whereby application filed by the appellant under Section 34 of the Arbitration and Conciliation Act, 1996 for setting-aside award dated 25.04.2014, passed by respondent No.2- Arbitrator, has been dismissed.

Brief factual matrix of the case are that the appellant, vide letter dated 26.07.2011 appointed respondent No.1 M/s G.C. Builders for executing work of construction of road, plinth protection and rain water harvesting system at SWH Tauru, with estimated cost of Rs.18,25,339/- (gross)/Rs.17,93,904 (net) on certain terms and conditions. Rates and recoveries were also mentioned in the said letter. Security @ 5% was to be deducted from the running bills of respondent No.1. Accordingly, appellant entered into a contract of works with respondent No.1. The work was to be executed within 120 days from the date of issuance of

allotment letter and thereafter, extension upto 30.06.2012 was also granted to the respondent No.1. Stand of respondent No.1 was that it made necessary arrangements for executing the work, but work could not be completed, as the In-charge concerned disallowed the work. The work of boundary wall could not be executed due to heavy wooden crates in large number and earth filling was also restricted. The work of earth filling was executed at the site to the extent of 550 Cum, whereas the payment was made for 245 Cum only. Further the work was also delayed due to non-supply of interlocking tiles in time. Despite repeated requests, the concerned SDO did not permit the appellant to execute the work. Objections raised by the appellant in this regard were not adhered to by the respondents and therefore, appellant invoked arbitration clause i.e. Section 25A of the contract agreement. Consequently, respondent No.2 was appointed as Arbitrator for settlement of the dispute. Vide award dated 25.04.2014, respondent No.1 was held to be entitled to Rs.12,600/-, Rs.2,17,222/-, Rs.25,000/- and Rs.11,650/- against items No.1, 2, 5 and 6 respectively alongwith interest @ 10% per annum from the due dates till the date of award. It was also directed that if payment was not made within 60 days, additional interest would be paid at the rate as provided in Section 31 (7) (b) of the Act from the date of award till payment. Aggrieved, appellant filed an objections under Section 34 of the Arbitration and Conciliation Act, 1996. The Additional District Judge, Panchkula, vide judgment dated 21.08.2017, dismissed the said objections of the appellant.

I find no infirmity with the orders passed by the Arbitrator as

well as the court below. It appears, the award passed by the Arbitrator is reasonable and objections raised by the appellant are not tenable. The Arbitrator had rightly appreciated the evidence led by the parties. It is settled law that award of the Arbitrator cannot be set-aside without having proved grave misconduct by the Arbitrator. Certain issues have been raised by the appellant. However, it has not been shown that any miscarriage of justice has been caused. The plea, thus, holds no substance. There is nothing on record to show that finding arrived at by the Arbitrator as well as the court below is not in consonance with the evidence on record. Thus, appeal is without any merit and is hereby dismissed.

CM-7770-CII-2018:

Since the main appeal has been dismissed on merits, this application for condonation of delay does not survive and the same is also dismissed.

(RAJAN GUPTA)
JUDGE

August 06, 2018
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No