

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

FAO No. 3153 of 2018 (O&M)

Date of decision : 16.08.2018

Haryana State Agriculture and
Marketing Board

....Appellant

V/s

M/s Devi Mai Enterprises & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vishal Garg, Advocate for the appellant.

RAJAN GUPTA J.

Present appeal is directed against the judgment dated 12.12.2017 passed by Additional District Judge, Rohtak whereby objections filed by appellant under section 34 of the Arbitration and Conciliation Act, 1996 has been rejected. Brief factual background of the case is that respondent no. 1 vide memo No. 4866 dated 21.11.2008 was allotted the work for constructions of 10 number Link roads at district Rohtak on certain terms and conditions. Accordingly, agreement was executed between both the parties. The work was to be executed within 8 months i.e. upto 20.07.2009. However, respondents failed to execute the work within the stipulated time and consequently issued warnings. Stand of the respondents is that it made necessary arrangements for executing the work but work could not be completed due to shortage of labour, material etc. The Executing Engineer imposed Clauses II & III of the terms and conditions after the expiry of time limit. Thereafter, respondents gave various undertakings to defer the action under Clause II & III on the ground that there was shortage of labour, material etc. Consequently, action under

Clause II was deferred from time to time. However, respondent no. 1 upto

30.09.2012 completed only 8 link roads and made request for release of 75% security amount in respect thereof. Thereafter, final bills of 8 link roads were got reviewed by the bills review committee. After the entire payment and made and security was cleared, respondent no. 1 raised a dispute regarding interest on security and claimed an amount of ₹5,13,187/-. Consequently, respondent no. 2 was appointed as Arbitrator for settlement of the dispute. Vide award dated 27.08.2015, respondent no. 1 was held to be entitled to ₹9,67,000/- on account of loss of profit. It also directed that if payment was not made within 90 days, simple interest @ 9% per annum would be payable from the date of award till its realization. Aggrieved, appellant filed objections under Section 34 of the Arbitration and Conciliation Act, 1996. The Additional District Judge, Rohtak vide judgment dated 12.12.2017, 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 that award passed by the Arbitrator is reasonable and objections raised by the appellant are not tenable. The Arbitrator has rightly appreciated the evidence led by the parties. It is well settled that award of the Arbitrator cannot be set-aside without having proved grave misconduct by the Arbitrator. There is nothing on record to show that findings 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.

As the main appeal has been dismissed on merits, no order needs to be passed in the accompanying application.

August 16, 2018

Ajay

(RAJAN GUPTA)
JUDGE