

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-2536-C-2016 in/and
RSA-929-2016 (O&M)
Date of Decision : 31.07.2018

Sumer Bansal

..... Appellant

Versus

Ved Parkash and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Rajinder Goyal, Advocate
for the applicant-appellant.

Mr. Nitin Kant Setia, Advocate
for the caveator-respondents.

AJAY TEWARI, J. (ORAL)

CM-2536-C-2016

For the reasons recorded, the application is allowed. Delay of
10 days in filing the appeal is condoned.

RSA-929-2016 (O&M)

This appeal has been filed against the concurrent judgments of
the courts below dismissing a suit which was filed by the appellant for
recovery of certain amounts.

The case of the appellant was that he and the respondents were
partners and the dispute arose between them on 16.08.2005. Four
arbitrators were appointed. On that very date the arbitrators gave their
award in which it was mentioned that the amount as claimed by the
appellant was due to him from the respondents. Hence, the suit. The case

the partnership the respondents had given certain signed papers to the appellant for the purpose of running of the business and those papers had been misused by the appellant to create this fictitious award (salsi faisla). On a consideration of the entire matter both the courts below returned the finding of fact that the case of the respondents was more probable than the case set up by the appellant and consequently dismissed the suit and this is how the appellant is before this Court.

Counsel for the appellant has argued that the courts below have wrongly held that the arbitration award was invalid.

In my opinion, the appeal must fail. The courts below have pointed out many factors which shroud the arbitration award in suspicion. The courts below have found that the arbitration award was typed on a document which already contained signatures. The courts below have noticed that there were two awards passed on the same day by the same arbitrators. In the non disputed award the arbitrators had taken care to mention at the end of the award that they had read out and explained the contents of the award to both the parties and only thereafter everybody had signed the same but this recital was conspicuously absent in the disputed award. They have further noticed the testimony of the sole arbitrator who appeared but could not answer the question as to whether the arbitrators had a meeting with the partners and even if the arbitrators had gone through the accounts books. The courts below noticed that as per the appellant the agreement to appoint arbitrators had taken place on 16.08.2005 and it was strange that on the same day the arbitrators gave their award. The courts below also noticed that as per the appellant the stamp papers were

month prior the respondents knew that the parties would agree to an arbitration. On a complete conspectus of the facts and the material on record, I am not persuaded that the findings of fact are either based on no evidence or based on such a perverse misreading of evidence so as to justify the interference of this Court in second appeal.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

July 31, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No