

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

ARBITRATION APPEAL NO. 6 OF 2019

Union Of India, represented By Military
Engineer Services Chief Engineer ...Appellant

Versus

M/s. Arun Kumar Deedwania And Anr. ...Respondents

CIVIL APPLICATION NO.3 OF 2019

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Ms.Shilpa Kapil, for the Appellant.

Mr.Sudip Sen i/b. Prabhakar M.Jadhav, for Respondent no.1.

CORAM : G.S. KULKARNI

DATE : 18th September, 2019

PC.

1. By the impugned order passed by the learned District Judge the appellant's application under Section 34 of the Arbitration and Conciliation Act, 1996 came to be dismissed, the sole challenge in the application being the rate of interest awarded at 12% per annum by the arbitral tribunal on the award amounts.

2. Learned District Judge has recorded that the arbitral tribunal has appropriately exercised jurisdiction in awarding interest at 12% per annum and that there is neither illegality nor unreasonableness on the part of arbitrator to award interest at the rate of 12% per annum. It is

observed that the prayer of the appellant that the award be set aside and as interest at the rate 9% ought to have been awarded, was not accepted.

3. Learned Counsel for the applicant made two fold submissions. Firstly, it is submitted that the principles governing Section 34 of the Code of Civil Procedure ought to be made applicable and more particularly proviso to the said provision. Secondly, referring to the decision of the Supreme Court in *Krishna Bhagya Jala Nigam Ltd. Vs. G.Harishcnadra Reddy & Anr.*¹ and the judgment of Delhi High Court in *M/s.Bharat Heavy E,lectricals Ltd. Vs. M/s.Llyod Insulations (India) Ltd.*² it is contended that interest at the rate of 9% ought to have been awarded by the Tribunal and the award therefore was required to be interfered on this ground, in the present proceedings.

4. I am not persuaded to accept the submissions as urged on behalf of the appellant. On perusal of the impugned award it clearly appears that the learned Arbitrator has applied the settled norms in awarding interest at the rate of 12% per annum. It cannot be said that considering the provisions of Section 31 of the Arbitration and Conciliation Act, the award in this regard can be said to be illegal.

1 (2007)2 SCC 720

2 2010 SCC OnLine Del 1061

5. The decisions as relied on behalf of the appellant, in my opinion, would not be applicable in the facts and circumstances of the case. In the facts of these cases the Court was of the opinion that the interest which was awarded by the arbitral tribunal was unreasonable and therefore, it was felt that it should be reduced to half. Surely, this is not a situation in the present case.

6. It needs to be observed that in fact the interest at the rate of 9% per annum has already been released by the petitioner in favour of the respondent and the balance amount at 3% per annum i.e. about Rs.7,11,810/-, which is not a very large amount, is yet to be released.

7. In the above circumstances, I find no merit in the appeal. It is accordingly, rejected. No costs.

8. The amount which is deposited in the District Court is permitted to be withdrawn by respondents alongwith the accrued interest, if any.

9. In view of disposal of the appeal, the pending civil application does not survive. It is accordingly disposed of.

(G.S.Kulkarni, J.)