

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMM.ARBITRATION PETITION NO. 771 OF 2019

Jayant Rambhai Patel

..... Petitioner

VERSUS

**Siddharth Colony Hitsarankshan
Co-operative Housing Society Ltd.**

..... Respondent

Mr.Akash Kumar Singh for the Petitioner.

Mr.Ramanand R. Sharma for the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 18th SEPTEMBER, 2019

P.C.

By this petition filed under section 34 of the Arbitration and Conciliation Act, 1996, the petitioner has impugned the arbitral award dated 20th July, 2017 passed by the learned arbitrator rejecting the substantial part of the claim made by the petitioner. Some of the relevant facts for the purpose of deciding this petition are as under :-

2. The petitioner and the respondent had entered into an agreement on 17th July, 1994 for slum redevelopment under the Slum Rehabilitation Scheme. The petitioner was to clear various dues payable by the respondent under the said agreement. It was the case of the respondent that since the petitioner did not proceed in accordance with the terms and conditions of the contract, the respondent terminated the said agreement on 26th November, 2003. The dispute was referred to the arbitration. The petitioner made a large number of

claims before the learned arbitrator and mainly for damages. The claim for damages was resisted by the respondent by filing written statement. Both the parties had led oral as well as documentary evidence before the learned arbitrator. Insofar as the documents proposed to be relied upon by the petitioner is concerned, the same were disputed by the respondent.

3. Insofar as the issue of termination is concerned, the learned arbitrator referred to the public notice issued by the respondent thereby terminating the agreement entered into with the petitioner. The respondent has already entered into a development agreement with another developer.

4. Though the learned arbitrator has rendered a finding that the agreement had been technically terminated or not, the learned arbitrator found that there was nothing wrong if the work had been entrusted to the another builder. The learned arbitrator however recorded this finding after dealing with the documents produced by the parties at great length in paragraph 6(e) of the arbitral award.

5. Insofar as claim for damages made by the petitioner is concerned, the petitioner could not prove the disputed documents relied upon by the petitioner before the learned arbitrator though an oral evidence was led. The learned arbitrator accordingly rendered a finding that there was no evidence to show that the petitioner legitimately calculated the alleged loss at the rate he had claimed in the statement of claim and thus rightly rejected the claim for loss of profit. The learned arbitrator has allowed the reimbursement in the sum of Rs.17,38,686/- in respect of the expenses incurred by the petitioner.

6. I do not find any infirmity in the impugned award which is based on the evidence led by both the parties. The findings rendered by the learned arbitrator being not perverse, cannot be interfered with by this court in this petition filed under section 34 of the Arbitration and Conciliation Act,1996.

7. The petition is devoid of merit and is accordingly dismissed. No order as to costs.

[R.D.DHANUKA, J.]