

DR. PRITPAL SINGH ANEJA AND ANOTHER VS M/S
MICROTEK INFRASTRUCTURES PVT LTD AND ANOTHER

Present: Mr. Aditya Dassaur, Advocate,
for the applicants.
Mr. Akshay Jindal, Advocate, and
Ms. Janya Sirohi, Advocate, and
Ms. Stuti Goel, Advocate,
for the respondents.

CM-19124-CII-2019

The main petition was allowed to be withdrawn with a
liberty to the petitioners to avail any other remedy in accordance
with law.

Petitioners have preferred this application for re-
calling of order dated 09.09.2019 on the ground that withdrawal
of revision petition at the instance of the petitioners was on
account of some mis-conception of fact.

Petitioners seek to argue the case on merit.

Mr. Akshay Jindal, Advocate accepts notice on behalf
of the respondents.

In view of aforesaid, order dated 09.09.2019 is re-
called.

With the concurrence of learned counsel for both the
parties, I have heard this matter again.

Main case

Petitioners have assailed the letter dated 28.03.2019
vide which Mr. V.K. Gupta was unilaterally appointed as Sole

Arbitrator to adjudicate upon the dispute between the parties. At the relevant time, there was a consumer complaint pending before the National Consumer Disputes Redressal Commission, New Delhi. Petitioners filed a miscellaneous application in the pending complaint so as to assail the letter dated 28.03.2019.

At one point of time, National Consumer Disputes Redressal Commission took cognizance of the said application and stayed appointment of Sole Arbitrator, but the said order was not extended beyond 30.07.2019.

The present revision petition was filed on 23.07.2019 i.e. one week prior to 30.07.2019. Obviously, the pleadings of the present revision petition are not supposed to cover factum of order dated 30.07.2019 passed by National Consumer Disputes Redressal Commission but the entry made by the Registry would show that the revision petition was re-filed on 17.08.2019, but still amendment to that effect was not made in the revision petition that the National Consumer Disputes Redressal Commission, New Delhi has not extended the stay beyond 30.07.2019. The matter was argued in preliminary hearing on 20.08.2019.

Perusal of the aforesaid order would also show that there was no reference made by the petitioners to the said order dated 30.07.2019.

This Court passed notice of motion with notice re: stay after noticing some facts.

As on date, the Arbitrator is proceeding with the arbitral proceedings. Petitioners could have resorted to Section 16 of the Arbitration and Conciliation Act and on such application, the Arbitrator could have decided his jurisdiction. Secondly, the petitioners have alternative remedy of Section 34 of the Act in the form of filing objections after passing of the award. Thirdly, the petitioners have other remedies of approaching the High Court under Section 11(6) of the Act for appointment of Arbitrator with the consent of the parties.

Since factum of order dated 30.07.2019 has not come forth, therefore, filing of revision petition on 23.07.2019 was pre-mature and the petitioners did not bring factum of order dated 30.07.2019 passed by National Consumer Disputes Redressal Commission on 20.08.2019 before this Court, therefore, I do not find any ground to interfere in this revision petition particularly when the petitioners have concealed material information from this Court.

A party who has not come to the Court with clean hands does not deserve any equitable relief.

In view of **S.P. Changalvaraya Naidu (dead) by LRs.**
vs. Jagannath (dead) by LRs., 1994 AIR (SC) 853; Hamza

Haji vs. State of Kerala and another, 2006(7) SCC 416; A.V. Papayya Sastry and ors. vs. Government of A.P. and ors, 2007(2) RCR (Civil) 431; Balwant Rai Tayal vs. M/s Subhash Oil Company, Hisar through Sh. Raghunath Sahi, 2003(2) RCR (Rent) 148; Badami (deceased) by her LR vs. Bhali, (2012) 11 SCC 574; and Ramesh Kumar and another vs. Furu Ram and another, (2011) 8 SCC 613, a person who has not come to the Court with clean hands and concealed material information cannot be accommodated, rather can be asked to go out of the litigation at any stage.

Dismissed.

19.09.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE