

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 17392 of 2021

Date of Decision: 06.09.2021

Ramphal and Another

... Petitioner(s)

Versus

Union of India and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Vaibhav Jain, Advocate
for the petitioner(s).

Mr. Tarun Walia, Assistant Advocate General,
Haryana, for respondent No.3.

Anil Kshetarpal, J.

1. Through this writ petition, the petitioners seek for enforcement of the award, passed by the Arbitrator in exercise of the powers under Section 3G(5) of the National Highways Act, 1956 (hereinafter referred to as “the 1956 Act”). The petitioners claim that although in the objection petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the 1996 Act”), no interim protection has been granted to the respondents, still the payment has not been released.

2. As per sub-Section 6 of Section 3G of the 1956 Act, the provisions of the 1996 Act are applicable to every arbitration under the 1956 Act. In Section 36 of the 1996 Act, the procedure for enforcement of the award passed by the Arbitrator has been provided. Section 36 of the 1996

Act reads as under:-

“36. Enforcement.—(1) Where the time for making an application to set aside the arbitral award under section 34 has expired, then, subject to the provisions of sub-section (2), such award shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), in the same manner as if it were a decree of the court.

(2) Where an application to set aside the arbitral award has been filed in the Court under section 34, the filing of such an application shall not by itself render that award unenforceable, unless the Court grants an order of stay of the operation of the said arbitral award in accordance with the provisions of sub-section (3), on a separate application made for that purpose.

(3) Upon filing of an application under sub-section (2) for stay of the operation of the arbitral award, the Court may, subject to such conditions as it may deem fit, grant stay of the operation of such award for reasons to be recorded in writing: Provided that the Court shall, while considering the application for grant of stay in the case of an arbitral award for payment of money, have due regard to the provisions for grant of stay of a money decree under the provisions of the Code of Civil Procedure, 1908 (5 of 1908)”.

3. Keeping in view the aforesaid facts, the petitioners have an effective alternative remedy before the Executing Court. In view thereof, the petitioners are relegated to the remedy before the Executing Court.

4. With the observations made above, the present writ petition is disposed of.

(Anil Kshetarpal)
Judge

September 06, 2021
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No