

**223 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CR-7933-2016 (O&M)****Date of decision: 23rd March, 2023**

State of Punjab and another

...Petitioners

Versus

V.K. Construction Company Pvt. Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Charanjeet Singh, Assistant Advocate General, Punjab.
Mr. V.K. Sachdeva, Advocate and
Mr. Pulkit Sachdeva, Advocate for the respondent.

AVNEESH JHINGAN, J (Oral):

1. This revision petition is filed aggrieved of orders dated 30th November, 2004 and 29th August, 2016 passed by Executing Court, Ropar.

2. The facts in brief are that the respondent was awarded work for construction of SYL Canal Road distance 39.500 to 42.000 kms. The terms and conditions provided for dispute resolution through arbitration. At the instance of the respondent, the matter was referred for arbitration and the proceedings culminated in award 29th August, 2000. The award was made rule of the Court on 20th November, 2001. The petitioners filed an FAO No. 770 of 2002 which was dismissed on 28th July, 2009. During the pendency of the appeal, execution proceedings were initiated. The application for the detachment of the property of the petitioners was disposed of vide order dated 30th November, 2004 with a direction to make payment to the respondent. The order was challenged by filing Civil Revision No. 703 of 2005, which was disposed of vide order dated 18th January, 2010. The revision petition was disposed of, considering that

that the rights of the parties accruing from the decree of the court below be adjudicated in execution proceedings.

3. In the execution proceedings, the petitioners set up a case that no interest was awarded to the respondent *vis-a-vis* claim No.13. The contention was based upon the fact that in the copy of award supplied to the petitioners it was not mentioned that interest amount is awarded for claim No.13. The Executing Court after perusing the original copy of the award available on record concluded that the interest for claim No. 13 was awarded. Further it was held that the findings in original copy of the award will prevail and not of the certified copy supplied to the petitioners, hence, the present revision petition.

4. Learned State counsel submits that as per the copy of the award supplied to the petitioners the interest on amount awarded in claim No.13 was not granted. He further argues that the sales tax was deducted in the final bill and the same has not been considered by the Executing Court.

5. Learned counsel for the respondent submits that in the original copy of the award the interest was awarded qua claim No. 13.

6. Heard learned counsel for the parties and perused the records.

7. The original copy of award dated 29th August, 2000, is unambiguous and clear that the respondent was granted interest for the amounts awarded on account of claims No. 2, 3, 4, 5, 6, 7, 8, 11 and 13.

8. The relevant portion is quoted below:-

“I fix the date of accrual as 1.8.89 the last date of measurement of work done as recorded in M.B. Being 31.7.89 in respect of claims allowed under count no. 2, 3, 4, 5, 6 and 7, 8, 11 and 13 and w.e.f.1.10.1986 on amount awarded under count no.1 as the work was executed prior to that. This interest is allowed upto the date of Award i.e. 29.8.2000 and

on the amount so awarded at the same rate from the date of Award till realisation or decree of the court whichever is earlier.”

9. The Executing Court has rightly held in the impugned order that the original award will prevail over the copy supplied to the parties.
10. With regard to the second contention raised by learned State counsel, he has failed to substantiate that any plea with regard to deduction of sales tax was ever raised and pressed in the execution proceedings. It would be apposite to note at this stage that the award between the parties had attained finality. The appeal against the award filed by the petitioners was dismissed in the year 2009.
11. Before parting, it would be appropriate to note that a Government Department indulged in a litigation for more than seven years which could have been avoided by mere inspection of the arbitral record. The result is that there is loss to public exchequer as the respondent would be entitled to interest at the rate of fifteen percent per annum from the date of the award till realization of the amount. The routine in which the matters are being handled for further litigation needs to have a re-look at an appropriate level. This order be brought to the notice of Secretary, Irrigation Department.
12. Considering the conduct of the petitioners that *inspite* of specific findings recorded by the Executing Court on the basis of the record, no attempt was made to verify the factual position. The petition is dismissed, with costs of Rs. 5000/-.

[AVNEESH JHINGAN]
JUDGE

23rd March, 2023
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |