

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 371 of 2019 (O&M)

Date of decision: 15th March, 2023

Balaji Associates

Appellant

Versus

HSIDC, Kundli, Sonapat and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. J. S. Thind, Advocate for the appellant.

AVNEESH JHINGAN, J (Oral):

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is filed aggrieved of dismissal of objections under Section 34 of the Act. The appeal is accompanied by an application for condoning delay of 43 days in filing thereof.

2. The brief facts are that the parties entered into an agreement dated 16.12.2003 for laying water supply line. As per the terms and conditions, the accessories were to be supplied by respondent No.1 (hereinafter referred to as 'the respondent'). The work was to be completed within four months. There was a dispute between the parties as the work was not completed within the stipulated time and sole arbitrator was appointed. The proceedings culminated in award dated 20.5.2014. Nine claims were raised by the appellants. The only grievance pressed in the present appeal is with regard to the first claim. The same is reproduced

below:

“(a) Rs.65,000/- i.e. difference of rate in the year 2003 and rates prevailing in the year 2005. In the year 2003, as per Haryana Schedule of rates and as per HSR item No. 6.6, the premium on excavation was 170% and in the year 2005 it was 250%. Since the claimant/contractor carried out work in 2003 and again in 2005 because of non supply of CI/DI accessories and the payment was paid in the year 2005 on the basis of rates prevalent in the year 2003. The claimant was entitled to the difference of rates in the year 2003 and 2005, that comes to Rs.65,000/-.”

3. The claim was denied by the arbitrator as the appellant failed to adduce evidence with regard to Haryana Schedule of Rates prevalent in the years 2003 and 2005.

4. The objections filed by the appellant were dismissed on 16.5.2018, hence the present appeal.

5. Learned counsel for the appellant submits that the arbitrator in spite of concluding that delay in completion of work was attributable to the respondent has not awarded the difference of rates for the years 2003 and 2005.

6. Heard learned counsel for the appellant and perused the pleadings.

7. The claim was rejected on the ground that there was no evidence produced with regard to the rates prevalent in the years 2003 and 2005. Even before this court there is no averment or pleading that such

evidence was produced.

8. In such circumstances, no case is made out for interference.
9. The appeal is dismissed.
10. As the main appeal has been dismissed, the application for condonation of delay is also disposed of.

15th March, 2023

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[AVNEESH JHINGAN]
JUDGE

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