



FAO-306-2022 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(240)

FAO-306-2022 (O&M)
Date of decision:- 04.09.2024**Union of India****... Appellant****Versus****M/s Rajeshwar Singh Sujowal House and another****... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Dharam Chand Mittal, Advocate
Senior Panel Counsel, UOI
for the appellant.

None for the respondents, despite service.

SUVIR SEHGAL, J. (ORAL)

1. Instant appeal has been filed under Section 37 of the Arbitration and Conciliation Act, 1996 assailing order dated 22.11.2021 passed by the learned Additional District Judge, Gurdaspur, whereby, objections, filed by the appellant, under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "the Act") have been dismissed on the ground that the Courts at Gurdaspur do not have the territorial jurisdiction to try and decide them.

2. Brief facts leading to the filing of the appeal are that a contract agreement bearing CA No. CE JZ/ASR-10/2011-12 regarding provision of external services, including source development and construction of connected buildings at Tibri Gurdaspur was entered into between the appellant and respondent No.1 on 16.05.2011. The date of completion of

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the construction of work was 07.06.2012, but the time was extended to 31.01.2014, when the work was foreclosed. Respondent No.1 raised some claims and the matter was referred to the Arbitrator-respondent No.2, who published an award dated 28.12.2018 in favour of respondent No.1 for Rs.19,08,386.56/-, which was amended on 14.01.2019. Appellant filed objections under Section 34 of the Act before the learned Additional District Judge, Gurdaspur, which have been rejected vide order under challenge herein.

3. While referring to Condition No.71 of the General Conditions of the Contract, counsel for the appellant has submitted that the Court at Gurdaspur had the jurisdiction to entertain the objections and the learned Additional District Judge has erred in dismissing them while granting liberty to the appellant to approach the competent Court of jurisdiction at Delhi.

4. I have heard counsel for the appellant and examined the paper-book with his able assistance.

5. Clause 71 of IAFW-2249, General Conditions of Contract, which forms a part of the agreement entered into between the parties, provides for the jurisdiction of the Courts and it reads as under:-

“71. Jurisdiction of Courts- Irrespective of the place of issue of tenders, the place of acceptance of tenders, the place of execution of contract or the place of payment under the contract, the contract shall be deemed to have been made at the place from where the acceptance of tenders has been



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issued and the work executed/ executable. The courts of the place from where the acceptance of the tender has been issued or the place where the work is executed/under execution shall alone have jurisdiction to decide any dispute arising out of or in respect of the contract."

6. A bare perusal of the above reproduced Clause makes it clear that the jurisdiction has been vested with the Court of the place from where the acceptance of the tender has been issued or where the work is executed. It is not in dispute that the work order dated 31.05.2011 was issued by the Garrison Engineer at Gurdaspur and the work was also carried out at Gurdaspur. Even the extension of time granted to respondent No.1 was signed at Gurdaspur and all the bills were prepared and the payments were made at Gurdaspur. Therefore, in terms of Clause 71 *ibid*, the jurisdiction vested exclusively in the Courts at Gurdaspur. The mere fact that the Arbitrator had passed the award at New Delhi would not vest the jurisdiction in the Courts at Delhi.

7. This aspect has been settled by the Supreme Court in **BGS SGS Soma JV Versus NHPC Ltd., (2020) 4 SCC 234** while observing that it is by no means not unusual for an Arbitral Tribunal to hold meetings or even hearings at a place other than the designated place of arbitration, either for its own convenience or for the convenience of the parties or their witnesses. It may be more convenient for an Arbitral Tribunal sitting in one place to conduct a hearing at another place, for instance, for the purpose of taking



evidence. In such circumstances, Supreme Court held that each move of the Arbitral Tribunal does not of itself mean that the seat of the arbitration changes. The seat of the arbitration remains the place initially agreed by or on behalf of the parties.

8. It is amply clear from the above reproduced Clause 71 of the General Conditions of the Contract that the parties had unanimously agreed that the place of the arbitration would be the place where the work order is issued and where the contract is executed, i.e., at Gurdaspur. This is evident from the intention of the parties, who have agreed to confer the territorial jurisdiction on the Courts at Gurdaspur alone to the exclusion of all other Courts. This intention has to be respected.

9. For the reasons afore-going, this Court is of the view that the judgment passed by the learned Additional District Judge, Gurdaspur cannot be sustained and is accordingly set aside.

10. Matter is remitted to the learned Additional District Judge, Gurdaspur to decide the objections on merits, after hearing the counsel for the parties.

11. Appeal is disposed of.

12. Parties are directed to appear the learned Additional District Judge, Gurdaspur on 15.10.2024, at 10:00 A.M.

13. Pending application is disposed of.

04.09.2024

Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No