

(2013) 02 RAJ CK 0103

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 1966 of 2011

Bhanwar Singh and Others

APPELLANT

Vs

Central Government and Others

RESPONDENT

Date of Decision : 11-02-2013

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 34, 37
National Highways Act, 1956 — Section 3G, 3G(5)

Citation : (2013) 1 WLN 616

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : D.S. Sodha, for the Appellant; Vinit Sanadhya, Advocate for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

Arun Bhansali, J.—This appeal has been preferred by the appellants under Sec. 37 of the Arbitration and Conciliation Act, 1996 ("the Act") against the judgment dt. 29.11.2010 passed by the District Judge, Bhilwara, whereby, their objections filed under Sec. 34 of the Act were rejected. Brief facts of the case are that the appellants aggrieved by the award dt. 29.06.2005 filed application under Sec. 3G(5) of the National Highways Act, 1956 ("the Act of 1956") before the Arbitrator (District Collector, Bhilwara). The plea raised by the appellants before the Arbitrator was that the land in question, which was acquired, was not liable to acquisition and/ or should not have been acquired and the same deserved to be deacquired for the reasons indicated by them.

2. The Arbitrator vide award dt. 17.10.2006 held that it had no jurisdiction to decide the issue as to whether the land in question be deacquired or not. However, despite holding that he had no such jurisdiction, the Arbitrator went on to reject the plea raised by the appellants on merits.

3. Feeling aggrieved, the appellants approached the District Court under Sec. 34 of the Act which application came to be rejected upholding the issue of

jurisdiction and the rejection on merits.

4. It was contended by learned counsel for the appellants that once the Arbitrator had come to a conclusion that he had no jurisdiction to deal with the said issue, there was no occasion for him to decide the said suit on merits and, therefore, to the extent the decision has been rendered on merits and upheld by the District Judge, deserves to be set aside.

5. On the other hand, learned counsel for the respondents submitted that the appellants themselves have invited the said observations from the Arbitrator and the District Judge and now it is not open for them to question the same.

6. Provisions of Section 3G(5) of the Act of 1956 deals with a case where the "amount determined by the competent authority" under Sub-Sections (1) or (2) of Section 3G is not acceptable to either of the parties, then they can approach the Arbitrator for redressal. The language of the Section leaves no manner of doubt that the plea raised by the appellants regarding justification for acquisition could not have been examined by the Arbitrator. Once the Arbitrator had rightly reached the conclusion that he had no jurisdiction to deal with the said issue, it was not open for him to thereafter return a finding on the issues raised by the appellants. The District Court also fell in error in again reiterating the findings on merits of the issue raised by the appellants while dealing with the objections under Sec. 34 of the Act. In that view of the matter, the appeal is partly allowed. The observations made by the Arbitrator and the District Judge on the merits of the plea raised by the appellants are set aside. However, the finding that the Arbitrator had no jurisdiction to deal with the said issue is upheld. No costs.