

(2009) 03 RAJ CK 0091
In the Rajasthan High Court

Chaudhary Construction Company	Vs	APPELLANT
The State of Rajasthan and Another		RESPONDENT

Date of Decision : 03-03-2009

Acts Referred:

Arbitration Act, 1940 — Section 17
Civil Procedure Code, 1908 (CPC) — Section 34

Citation : (2009) 2 WLN 381

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vineet Kothari, J.—Heard learned Counsels.

2. This revision petition is directed against the order dt. 01.06.2002 passed by the learned District Judge, Udaipur who while allowing the application u/s 17 of the Arbitration Act, 1940 made the arbitration award dt. 26.03.1999 a rule of Court, however, reduced the rate of interest from 18% per annum as awarded by the Arbitrator to 9% per annum pendente lite from 25.03.1996 to the date of payment in the impugned order.

3. The learned Counsel for the petitioner contractor urged that the Court had no power to reduce the rate of interest from 18% to 9% per annum without assigning any reason in the impugned order. Unless the arbitration award itself is found to be wrong so as to not to make a rule of Court, the learned District Judge could not reduce the rate of interest while not disturbing the amount of arbitration award itself. She relied upon the judgment of the Hon'ble Supreme Court in the case of B.L. Gupta Construction (P) Ltd. Vs. Bharat Cooperative Group Housing Society Ltd., and judgment of the Hon'ble Supreme Court in the case of Paradip Port Trust and Ors. v. Unique Builders 2001(1) Arb. LR 505 (SC) and the judgment of coordinate Bench of this Court in Alim & Co. v. State of Rajasthan 1998 (Supp.) Arb. LR 67.

4. As against this, Mr. Mukul Singhvi, learned Counsel appearing for the respondents relying upon the decision of the Hon''ble Supreme Court in case of Krishna Bhagya Jala Nigam Ltd. Vs. G. Harischandra Reddy and Another, referring to para 11 of the said judgment submitted that the Hon''ble Supreme Court in that case had reduced the rate of interest from 18% to 9% at all the three stages of the arbitration namely pre-arbitration, pendent lite and post-award period. He, therefore, submitted that since the Bank rates have been constantly falling and the present Banks also paid interest at the rate of 9% per annum, the impugned order of learned District Judge does not require to be interfered with in the revisional jurisdiction of this Court.

5. The Hon''ble Supreme Court in B.L. Gupta Construction Company's case (Supra) held that the arbitrator had exercised his jurisdiction u/s 34 of the C.P.C. by grant of pendente lite interest at the rate of 18% per annum and the High Court could not have interfered with the said discretionary order where no reason was assigned for the same. The Hon''ble Supreme Court, however, reduced the rate for pre-reference stage and pre-arbitration stage to 10% per annum payable to the party. In Paradip Port Trust's case where High Court modifying the award, denied the interest on the ground that there was no claim for interest pendente lite, the Hon''ble Supreme Court modified that part of the order of the High Court and awarded 18% interest per annum pendente lite and future interest or post-award interest at the rate of 12% per annum from the date of decretal payment. Similarly this Court in Alim & Company's case (supra) modified the impugned order of the learned District Court and modified the arbitration award by awarding interest at the rate of 18% per annum and awarding the arbitrator award also made rule of Court.

6. The judgment relied upon by the learned Counsel for the respondents of course indicates that the Hon''ble Supreme Court reduced the rate of interest from 18% per annum to 9% per annum by observing that "Here also we may add that we do not wish to interfere with the Award except to say that after economic reforms in our country the interest regime has changed and the rates have substantially reduced and, therefore, we are of the view that the interest awarded by the Arbitrator at 18% for the pre-arbitration period, for the pendente lite period and further interest to be reduced to 9%", however, with great respects, this reduction of interest by the Hon''ble Supreme Court in the facts of the peculiar case without laying down it is a matter of law that the learned District Court or for that matter the High Court in revisional jurisdiction to reduce the rate of interest as awarded by the learned Arbitrator in the arbitration award, cannot be applied in the facts of the present case. On the other hand the judgments relied upon by the learned Counsel for the petitioner clearly indicate that the rate of interest awarded by the arbitration in his discretion as per Section 34 of the C.P.C. cannot be reduced without assigning cogent reasons for that. In the present order impugned in the revision petition before this Court, no such reason is found by this Court and simply in the operative part of the impugned order the same has been directed to be paid with pendente lite

interest at the rate of 9% per annum.

7. In these facts and circumstances of this case and in view of the judgments cited at the Bar, this Court is of the view that the learned District Judge was not right in reducing the rate of interest from 18% per annum to 9% per annum.

8. Consequently, this revision petition is allowed and the impugned part of the order dt. 01.06.2002 is set aside and the rate of interest instead of 9% per annum shall be substituted by 18% per annum as awarded by the learned Arbitrator. No costs.