
(2005) 02 P&H CK 0086
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2540 of 1985

Executive Engineer, Construction Division P.W.D. B and R Branch APPELLANT

Vs

Swatantar Lal RESPONDENT

Date of Decision : 02-02-2005

Acts Referred:

Arbitration Act, 1940 — Section 14, 14(1), 17

Citation : (2005) 2 ARBLR 484 : (2005) 140 PLR 326 : (2005) 3 RCR(Civil) 54

Hon'ble Judges : Ashutosh Mohunta, J

Bench : Single Bench

Advocate : Ashish Verma, A.A.G, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

Ashutosh Mohunta, J.—This revision petition is directed against the order dated 11.5.1985 passed by the Additional District Judge (II), Bhatinda, by which the appeal filed by the respondent against the order dated 24.12.1983 passed by the Sub Judge, 1st Class, Mansa was accepted and the Award dated 28.5.1977 passed by the Arbitrator was quashed.

2. Briefly, the facts of the case are that certain dispute arose between the Executive Engineer, Construction Division, P.W.D. B&R Branch, Mansa, and the respondent-contractor, namely Swatantar Lal. The matter was referred to the Arbitrator, who gave the award on 28.5.1977 for making the same as a rule of the Court. However, the Court at Bathinda found that it had no jurisdiction to make the Award a rule of the Court and vide order dated 5.8.1980 the Award was returned with the order that the same be presented before a proper Court. Thereafter, the petitioner presented the Award before the Sub Judge 1st Class, Mansa for making it a rule of the Court. The Court at Mansa made the award a rule of the Court u/s 14 read with Section 17 of the Arbitration Act. This order was challenged by the contractor before the lower appellate Court on the ground that as the Award had been submitted beyond the period of limitation, therefore,

the Award itself is liable to be quashed.

3. It has been argued on behalf of the petitioner that the Award passed by the Arbitrator was inadvertently filed before a Court at Bathinda. Therefore, the period spent for pursuing the case at Bathinda should be excluded while computing the period of limitation. It is submitted by the learned counsel that the Senior Sub Judge, Bathinda, had returned the Award on 5.8.1980 for being presented before an appropriate Court and the same was presented before the Sub Judge, 1st Class, Mansa. On 23.8.1980 i.e., within 18 days of the passing of the order by the Senior Sub Judge at Bathinda, learned counsel contends that by virtue of Section 14(1) of the Arbitration Act, while computing the period of limitation, the time spent by a party in diligently pursuing his case before a wrong forum shall be excluded.

4. A perusal of the aforementioned facts clearly shows that the Arbitrator had filed the Award before the Senior Sub Judge at Bathinda within the prescribed period of limitation and the petitioner was pursuing the same with due diligence. It is only when the Court at Bathinda found that the case with regard to making of the Award a Rule of Court at Mansa, the petitioner filed the Award before the Court at Mansa. It is, thus, clear that the petitioner was diligently pursuing the case before the Court at Bathinda, which did not have the jurisdiction to entertain the same. Thus, the period spent before the Court at Bathinda has to be excluded.

5. In view of the above, the judgment dated 11.5.1985 passed by the Additional District Judge, Bathinda, is set aside and the judgment dated 24.12.1984 passed by the Sub Judge 1st Class, Mansa, is upheld and, accordingly, the Award dated 28.5.1977 is held to have been made a Rule of the Court.

The revision petition is, accordingly, allowed.