
(2009) 04 P&H CK 0179
In the Punjab And Haryana At Chandigarh

H.S.E.B. (now U.H.B.V.N.L.) and Others	APPELLANT
Vs	
Prabhu Steel Industries	RESPONDENT

Date of Decision : 29-04-2009

Acts Referred:

Arbitration Act, 1940 — Section 14, 17

Citation : (2009) 2 CivCC 608 : (2009) 154 PLR 752 : (2010) 7 RCR(Civil) 481

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

L.N. Mittal, J.—This is revision petition assailing order dated 30.01.2009 (Annexure P-4) passed by learned Additional Civil Judge (Senior Division), Sonapat, thereby dismissing the restoration application filed by the petitioners.

2. The petitioners filed a petition (Annexure P-1) u/s 14(2) and Section 17 of the Indian Arbitration Act, 1940 for making Award of the Arbitrator as Rule of the Court. The said petition was dismissed for want of prosecution vide order dated 14.12.2006 (Annexure P-2) because process fee etc. was not filed despite many opportunities including last opportunity. It was thereafter that the petitioners filed restoration application (Annexure P-3) for restoration of the original petition (Annexure P-1). The restoration application was moved on wrong averments that on the date fixed, Counsel for the petitioners could not appear being busy in some other case. However, the original petition had not been dismissed in default or due to non-appearance of the Counsel for the petitioners, but had been dismissed for want of prosecution on account of non-filing of process fee etc., in the presence of Counsel for the petitioners. In this view of the matter, the learned trial court has dismissed the restoration application.

3. I have heard learned Counsel for the petitioners and perused the case file.

4. Before proceeding further, it has to be noticed that the respondent did not appear in the trial court in proceedings of the restoration application inspite of

notice and was proceeded ex-parte. Consequently, service of notice of the instant revision petition on the respondent is dispensed with.

5. Learned Counsel for the petitioners contended that Arbitration Award has already been passed in favour of the petitioners i.e. U.H.B.V.N.L. an undertaking of the State Government and public interest would suffer if the original petition is not restored. It is submitted by the learned Counsel that the original petition may be restored on payment of cost.

6. Keeping in view all the circumstances, notwithstanding that the petitioners do not have a good case on merits, the ends of justice would be served if the original petition is restored on payment of cost. For taking this view, I have also kept in mind the fact that the respondent had not even been served in the original petition.

7. The revision petition is accordingly allowed. Impugned order dated 30.01.2009 (Annexure P-4) passed by learned trial court is set aside. Restoration application (Annexure P-3) filed by the petitioners is allowed and order dated 14.12.2006 (Annexure P-2) passed by the trial court is set aside and original petition (Annexure P-1) is restored, subject to deposit of Rs. 10,000/- as cost with District Legal Services Authority, Sonapat. The petitioners shall be entitled to recover the cost amount from the guilty official, in accordance with law.