
(1977) 02 RAJ CK 0019
In the Rajasthan High Court
Case No : Civil Revision No. 437 of 1973

Hukmi Chand

APPELLANT

Vs

Murlidhar

RESPONDENT

Date of Decision : 15-02-1977

Acts Referred:

Arbitration Act, 1940 — Section 20

Citation : (1977) WLN 69

Hon'ble Judges : S.N. Modi, J

Bench : Single Bench

Judgement

S.N. Modi, J.—This revision application is directed against an order of the Munsif Magistrate, Jaisalmer dated 11-8-1973.

2. The relevant facts of the case are that the non-petitioner filed a suit for rendition of accounts against the petitioner. It was pleaded in the plaint that the matter has to be referred to arbitration in accordance with the terms of the agreement. In view of the above allegation the proceedings in the suit were stayed and the plaintiff was directed to file an application to refer the matter to arbitration. On 30-9-1972 the non-petitioner plaintiff moved an application u/s 20 of the Arbitration Act, 1940 with the prayer that the matter may be referred to arbitration as per agreement between the parties. This application being defective, certain objections were raised by the petitioner-defendant. On these objections the court ordered to remove the defects. The non-petitioner plaintiff instead of removing the defects, moved mother application on 3-5-1973. The petitioner-defendant also opposed that application on various grounds. The main objections were two fold. Firstly, that the non-petitioner plaintiff did not remove the defects ordered by the court in respect of the application dated 30 9-72. The second objection was that the valuation of the subject matter was beyond pecuniary jurisdiction of the court. The lower court after hearing the arguments passed the impugned order whereby it held the second application to be valid, and further, that the court has pecuniary jurisdiction to hear the application. It is,

against this order that the present revision application has been filed.

3. I have heard learned Counsel for the parties and gone through the record of the case. It is contended in the first instance that the non-petitioner plaintiff has committed gross error in filing second application dated 3-5-1973 when he was asked to remove the defects in respect of the first application dated 30-9-1972. The contention is well founded. In order to cut the matter short, the learned Counsel for the non-petitioner plaintiff withdraws the first application dated 30-9-1972. The question of removing defects in respect of the first application, therefore, does not arise.

4. The second contention of the learned Counsel for the petitioner is that the lower court committed gross error in holding, that the court has pecuniary jurisdiction to hear the application dated 3-5-1973. It is common ground between the parties that no reply has yet been filed by the petitioner of the Second application dated 3-5-1973. It will be open to the petitioner to raise if he pleads as to the pecuniary jurisdiction in his written statement. In case such a point is raised in the written statement, the court shall frame an issue and decide the same on merits, in accordance with law. No other point has been pressed before me.

5. The revision application is disposed of accordingly. No order as to costs.