
(2005) 09 RAJ CK 0079

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 1670 of 2000

Kamla Devi Lahoti

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 05-09-2005

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 34

Citation : (2005) 09 RAJ CK 0079

Hon'ble Judges : J.R. Goyal, J

Bench : Single Bench

Advocate : Satish Khandal, for the Appellant; D.D. Sharma, for the Respondent

Final Decision : Allowed

Judgement

J.R. Goyal, J.—Instant appeal is preferred against the order dated 11.11.1999 passed by District Judge, Jaipur City in Civil Misc. Application (Arbitration) No. 191/ 1999 modifying the award passed by Sole Arbitrator on 17.6.1999.

2. Heard learned counsel for the parties.

3. Learned counsel for the appellant contended that Sole Arbitrator had awarded interest at the rate of 12% on the claim amount determined by him, but without assigning any reason learned District Judge, Jaipur City reduced the rate of interest to 9%. Reliance has been placed on the judgment rendered in Paradip Port Trust & others Vs. Unique Builders, 2001 WLC (SC) Civil 196, wherein it has been held that when no mistake on face of award and in view of documents appended or incorporated thereto, award could not be set aside even with respect to interest part of award.

4. Learned counsel for the respondent supported the impugned order and contended that after considering the entire facts, learned District Judge has rightly reduced the rate of interest.

5. I have pondered over the submissions made at Bar. It is not disputed that Sole

Arbitrator is competent to grant interest while making an award. In *Ram Nath International Construction Pvt. Ltd. Vs. State of U.P.*, 1998 (1) ACJ 74 (S.C.): 1998 (3) CCC 100 (S.C.): AIR 1998 SC 367, Hon'ble the Supreme Court has held that arbitrator not debarred from granting interest in terms of agreement and power can be exercised analogous to S.34, CPC. It is also held that grant of interest is question of discretion of Arbitrator and can be granted to do complete justice between parties. In *Secretary, Irrigation Department, Government of Orissa and others Vs. G.C. Roy*, it has been held that where the agreement between parties does not prohibit grant of interest and where a party claims interest and that dispute is referred to the Arbitrator, he shall have the power to award interest pendente lite.

6. Here in this case, Sole Arbitrator awarded interest pendente lite at the rate of 12% which has been reduced by the District Judge, Jaipur City to 9%, which is not tenable in view of the above discussion. No mistake, apparent on the face of award, appears in regard to the rate of interest granted by Sole Arbitrator. I am, therefore, of the view that learned District Judge, Jaipur City had wrongly interfered with the discretion of Sole Arbitrator in this case. Consequently, this appeal is allowed to the extent that appellant will get the interest pendente lite at the rate of 12% per annum.