
(2009) 10 RAJ CK 0049
In the Rajasthan High Court

Kamla Devi Lahoti

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 08-10-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 34

Citation : (2010) 1 WLN 53

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

Bench : Single Bench

Final Decision : Allowed

Judgement

Jitendra Ray Goyal, J.—This misc. appeal has been preferred against the order dt. 15.11.1999 passed by District Judge, Jaipur City, Jaipur in Arbitration Case No. 200/1999 who modified the award passed by the sole Arbitrator and reduced the rate of interest from 12% per annum to 7% per annum.

2. Heard learned Counsel for the parties and perused the material available on the record.

3. Learned Counsel for the appellant submitted that sole Arbitrator has awarded interest at the rate of 12% per annum on the claim amount determined by him but the learned District Judge, Jaipur City, Jaipur without assigning any reason has reduced the interest to the rate of 7% per annum. It has further been submitted that learned District Judge can only interfere with the award passed by the Arbitrator when it appears that some mistake has been committed on the face of the award. Reliance has been placed upon the judgment rendered in the case of Paradip Port Trust and Ors. v. Unique Builders reported in 2001 WLC (SC) Civil 196, wherein it was held that award could not be set aside when no mistake on the face of award in view of the documents appended or incorporated thereto has been found.

4. Learned Deputy Government Counsel for the respondents supported the impugned judgment and submitted that considering the entire facts and

circumstances, the learned District Judge, Jaipur City, Jaipur rightly reduced the interest.

5. I have considered the rival submissions made at the bar. It is not disputed that sole Arbitrator is competent to award interest while making the award. Hon"ble the Apex Court in the case of Ram Nath International Construction Pvt. Ltd. v. State of U.P. reported in AIR 1998 SC 67 has held that Arbitrator not debarred from granting interest in terms of agreement and power can be exercised analogous to Section 34 of the Code of Civil Procedure. It has also been held that grant of interest is a question of discretion of the Arbitrator and can be granted to do complete justice between the parties. In the case of Secretary, Irrigation Department, Government of Orissa and Ors. v. G.C. Roy reported in AIR 1992 SC 72, it has been held that where the agreement between the 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 pendent elite.

6. Here in the instant case, the sole Arbitrator has awarded interest pendent elite at the rate of 12% per annum which has been reduced by the District Judge, Jaipur City, Jaipur to the tune of 7% per annum without assigning any cogent reason. 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, Jaipur had wrongly interfered with the discretion of sole Arbitrator in the present matter. Consequently, this appeal is allowed to the extent that appellant will get the pendente lite interest at the rate of 12% per annum.