

(2020) 11 DEL CK 0219

In the Delhi High Court

Case No : Civil Miscellaneous (Main) No. 511 Of 2020

Khadi Gramodyog Bhawan

APPELLANT

Vs

General Secretary

RESPONDENT

Date of Decision : 17-11-2020

Acts Referred:

Industrial Disputes Act, 1947 — Section 17, 19, 19(3)
Code Of Civil Procedure, 1908 — Order 21

Citation : (2020) 11 DEL CK 0219

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Satyapal Singh

Final Decision : Dismissed

Judgement

Sanjeev Sachdeva, J

CM(M) 511/2020 & CM APPL.26486/2020 (stay)

1. The hearing was conducted through video conferencing.
2. Petitioner impugns order dated 12.03.2020, whereby, the objections filed by the petitioner to the execution filed by the respondent has been dismissed with costs of Rs.50,000/-.
3. The main contention of learned counsel for the petitioner is that the executing court has erred in imposing costs on the petitioner. He submits that the notice was issued to the petitioner on the execution petition inviting the petitioner to file objections inasmuch as the notice stated that in case the petitioner desires, he may file a reply or objection to the execution petition. It is contended that in these circumstances, the objections were filed objecting to the award which were ultimately dismissed by the impugned order

imposing costs of Rs.50,000/-.

4. The award in issue was published in favour of the respondents on 05.11.2006. Petitioner impugned the award by filing a writ petition before this

Court being W.P.(C) 1443/2007, which was dismissed by a judgment dated 09.07.2015. Respondent thereafter impugned the said judgment before the

Supreme Court by filing a Special Leave to Appeal (C) No.31462/2015, which special leave to appeal was dismissed on 27.11.2015.

5. Thereafter, respondent filed the subject execution petition seeking execution of the award on which notice was issued to the petitioner and the

petitioner filed their objections.

6. Impugned order records that the only objection raised by the petitioner was that the execution petition was time barred. The executing court found

that the award, which was published on 10.10.2006, had till date not been implemented and accordingly petitioner had been successful in delaying the

proceedings. The workmen, who were entitled to the benefit of the Award, were deprived of the said benefit for over 14 years by the petitioner.

Consequently, the executing court imposed costs of Rs.50,000/-.

7. The only objection raised by the learned counsel for the petitioner is that the execution petition is beyond time.

8. Reliance is placed on the provisions of Section 17 of the Industrial Disputes Act to contend that the award is enforceable for the period of one year.

The only submission made by the learned counsel for the petitioner is that the award is to remain in operation for the period of one year and would

lose its enforceability in terms of Section 19 (3).

9. Reliance is also placed by learned counsel for the petitioner on the judgment of this Court in M/s. Jagatjit Industries Ltd. vs. Labour Officer & Anr.

dated 28.09.2011 in Cri.M.C.4899-4901/2006.

10. Section 19(3) stipulates that the award shall remain in operation for a period of one year. Section 19 does not stipulate that the award would lose

its enforceability after the expiry of the period of one year. In case the Award is for payment of money, the same is executable like a decree of a civil

court. The limitation for execution of a decree is 12 years as noticed by the executing court.

11. Learned counsel for the petitioner has failed to show any provision/judgment which lays down that the award cannot be executed after the expiry

of one year.

12. Furthermore, it is expedient to note that the award which was published in the year 2006 was impugned by the petitioner before this Court as well

as the Supreme Court and it was finally on 27.11.2015 that the special leave petition was dismissed by the Supreme Court. The respondents workmen,

who had been litigating for over 14 years cannot be denied the benefit of the Award merely on the technical ground as contended by the petitioner.

13. Judgment in M/s. Jagatjit Industries Ltd. (supra) also does not further the case of the petitioner inasmuch as the issue in the said case was not with

regard to the execution of the award but it was with regard to commencement of criminal proceedings for failure to implement the award within the

period of one year. Said Judgment is clearly not applicable in the facts of the present case.

14. In view of the above, I find no infirmity in the view taken by the Trial Court and accordingly, no ground is made out for interfering with the

impugned order.

15. Petition is, accordingly, dismissed.

16. Learned counsel for the petitioner further submits that the computation of the claim has not yet been done by the executing court even though

computation has been filed by the petitioner.

17. It is implicit in Order 21 CPC that the executing court prior to executing the award would do the computations and thereafter would arrive at a

figure which is payable under the award.

18. No further orders are called for on the said aspect.

19. Copy of the judgment be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.