
(2013) 07 MP CK 0379

In the Madhya Pradesh High Court

Case No : Writ Petition No. 2670 of 2004

Laxmi Kumar (dead) through L.Rs.

APPELLANT

Vs

Krishna Kumar Baori

RESPONDENT

Date of Decision : 25-07-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17

Citation : (2013) 07 MP CK 0379

Hon'ble Judges : S.K. Gangele, J

Bench : Single Bench

Advocate : V.K. Bharadwaj, assisted by Mr. Anvesh Jain, for the Appellant; Sanjeev Jain, Advocate for respondents No. 2, 3 and 4 and Shri Vikas Singhal, Advocate for the L.Rs. of respondent No. 6, for the Respondent

Final Decision : Dismissed

Judgement

S.K. Gangele, J.—This petition has been filed by the petitioners against the order dt. 9.4.2004 passed by the trial Court, by which the trial court allowed amendment application filed by the deceased respondent No. 1 under Order 6 Rule 17 of CPC. An award was passed by the Arbitrator on 4.1.2003. The deceased respondent No. 1 submitted objections on the award on 27.1.2004 before the court. Thereafter, the deceased respondent No. 1 filed an application for amendment in the objections. The deceased respondent No. 1 raised following objections by way of amendment:

2. The aforesaid objections were allowed by the trial Court by the impugned order.

3. Learned senior counsel for the petitioners has submitted that the court has committed an error of law in allowing the objections because the objections were filed beyond the period of limitation, hence, after expiry of period of limitation, objections could not be entertained. In support of his contentions learned counsel relied on the following judgments:-

- (i) Haji Ebrahim Kassam Cochinwalla Vs. Northern Indian Oil Industries Ltd.,
- (ii) Mulchand Doshi Vs. Dalam Chand Bengani and Others,
- (iii) Pirgonda Hongonda Patil Vs. Kalgonda Shidgonda Patil and Others,
- (iv) State of Maharashtra Vs. Hindustan Construction Company Ltd.,

4. Contrary to this, learned counsel appearing on behalf of respondents No. 2, 3 and 4 has submitted that the court has rightly accepted the objections because no new plea has been raised by the deceased respondent No. 1 in filing the objections. In support of his contention, learned counsel relied on the judgment passed in the case of Rampur Engineering Co. Ltd. Vs. Punjab State Electricity Board and Another,

5. The arbitration award was passed under the provisions of old Act (Act of 1940) and there was no provision for limitation for filing objections under the Act of 1940, however, Clause 119 of the Limitation Act 1963 prescribes limitation of 30 days for setting aside an award remitted for reconsideration. The objections were raised within the aforesaid period.

6. From the perusal of the objections as allowed, it is clear that these objections were supplementary in nature and no new plea has been raised by the deceased respondent No. 1 through the objections. In such circumstances, in my opinion, the court has not committed any error in allowing the objection. The judgments relied on by the learned counsel for the petitioners are distinguishable on facts on the ground that only supplementary grounds have been added by way of objection and those are independent objections. Hence, in my opinion, there is no error of jurisdiction committed by the trial court. I do not find any merit in this petition. It is hereby dismissed.