
(2001) 10 P&H CK 0096
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2030 of 1981

Parkash Chand

APPELLANT

Vs

Ram Babu and Others

RESPONDENT

Date of Decision : 25-10-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Citation : (2002) 2 RCR(Civil) 639

Hon'ble Judges : Bakhshish Kaur, J

Bench : Single Bench

Advocate : Harsh Rekha, for the Appellant; R.S. Mittal and Sudhir Mittal, for the Respondent

Final Decision : Dismissed

Judgement

Bakhshish Kaur, J.—This revision petition has been directed against the judgment passed by the learned Ex-Officio Additional District Judge, Gurgaon whereby the judgment of the trial Court making the award rule of the court was reversed.

2. Brief facts of the case are that Babu Ram, Ram Kishore on the one side and Prakash Chand, Gobind Saran, Kanahaya Lal and Ganga Saran on the other side, had a dispute over certain bulb manufacturing factory situated in plot No.32, Sector 4, Indus-trial-cum-Housing Estate, Ballabgarh. The parties had entered into an agreement on 7.8.1969 to refer the dispute to the sole arbitrator Hardiayal Mal. The arbitrator gave the award in the terms that a sum Rs.51961.35 paise is due to Parakash Chand and others. The amount was directed to be paid in quarterly instalments.

3. Parkash Chand then moved an application u/s 14 that the Arbitrator may be asked to file the award and thereafter the award may be made rule of the court. Ram Babu and Ram Kishore raised objections that the award is illegal and void ab initio, that the Civil Court has got no jurisdiction to entertain and try the case.

4. The objection petition was resisted by Prakash Chand petitioner. Thus, the

controversy raised by the parties gave rise to the following issues:-

"1. Whether the petitioner and respondents 4, 5 and 6 on the one side as second party and respondent nos. 2 and 3 as first party on the other side entered into an arbitration agreement as per details set out in para no. 1 of the application? OPA

2. Whether the parties appointed respondent No. 1 as the sole arbitrator for making the award? OPA

3. Whether the award filed by the arbitrator deserves to be made a rule of the court? OPA

4. Whether the impugned award is illegal, bad, a nullity and void ab initio on the grounds mentioned in para No. 1 and Clause (i) to (XXXII) thereof of the reply of respondents 2 and 3 OPR 2&3.

6. Relief.

5. The objection petition preferred by the objectors was dismissed and the findings on all the issues were recorded against the objectors. Resultantly, the award was made rule of the Court by judgment and decree passed by the learned Sub-Judge First Class Ballabgarh on 26.7.1975. Aggrieved by the judgment and decree, the objectors preferred appeal which was accepted by the learned Additional District Judge. Hence the revision.

6. I have heard Ms. Harsh Rekha learned counsel for the petitioner and Sh. R.S. Mittal, Sr. Adv. for the respondents.

7. The Trial Court no doubt has returned the findings on all the issues against the objectors and also came to the conclusion that the civil court has got jurisdiction to entertain the suit and in appeal, the findings of the trial court on issue Nos. 1 and 2 were affirmed. The findings on issue nos. 3, 4 and 5 were however, answered in favour of the objectors holding that the award is illegal and void ab initio and also that the civil court has got no jurisdiction to entertain to the suit.

8. While discussing the merits of the objection raised by the objectors, it has been observed that the remedy of Parkash Chand-petitioner lies before the Company Judge and that the award could not be set aside merely on the fact of procedure adopted by the arbitrator. Learned counsel for the petitioner has not been able to convince the Court as to how and in what respect the impugned order is bad in the eyes of law and the findings recorded by the learned appellate court are perverse.

9. In the given set of circumstances as above, whether the Court's interference in the exercise of revisional power is called for? The answer is in the negative. It is well-settled that unless the discretion exercised by the courts below is arbitrary the High Court in its revisional jurisdiction will not interfere.

For the exercise and extent of revisional powers u/s 115 of the Code of Civil

Procedure, reliance can be easily placed on Pandurang Dhoni Chougule Vs. Maruti Hari Jadhav, and Vadivelu Vs. Sundaram and Others, , it has been held that revisional powers of High Court can be exercised and trial Court orders set aside where there has been an error of jurisdiction or flagrant violation of law. There is nothing on the record to show that the Court has exercised the jurisdiction not vested in it.

10. Having carefully gone through the findings recorded by the appellate Court, I do not find any ground to differ with the well-reasoned order passed by the learned Additional District Judge, as it does not suffer from any illegality or infirmity.

11. For the aforesaid reasons, this revision is dismissed.