

(1999) 02 DEL CK 0066

In the Delhi High Court

Case No : S.No. 385-A/96

Satellite Cables (P) Ltd.

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 05-02-1999

Acts Referred:

Arbitration Act, 1940 — Section 30, 33

Citation : (1999) 1 AD 850 : (1999) 77 DLT 735

Hon'ble Judges : M.S.A. Siddiqui, J

Bench : Single Bench

Advocate : Mr. Rajesh Banati, for the Appellant; Ms. Jyoti Sinha, for the Respondent

Judgement

M.S.A. Siddiqui, J.—By this order, I propose to dispose of the objections filed by the petitioner/claimant under Sections 30, 33 of the Arbitration Act.

2. A few facts leading to the controversy in question may be stated at the outset. On 1961990, an agreement was entered into between the respondent Union of India and the petitioner/claimant for supply of PVC(AL) cables 16 sq.mm. to 120 mm by the petitioner to the respondent. Consequent upon certain disputes having arisen in between the parties, the matter was referred to the sole arbitrator. The arbitrator rendered his award on 29121995. The petitioner/claimant has filed objections u/s 30 and 33 of the Arbitration Act to the award being made a rule of the Court. Petitioner's main grievance is that the Arbitrator has committed a patent error in allowing the counter claim of the respondent. On the contrary, it is contended by the respondent that the respondent suffered a loss of Rs. 3,33,560.13 on account of non-execution of the supply order and so the respondent was entitled to recover the said amount from the petitioner.

3. In view of the aforesaid rival contentions, the following issues were framed:

1. Whether the award dated 291295 is liable to be set aside on the basis of objections filed u/s 30 and 33 of the Arbitration Act?

2. Relief?

Issue No.1

4. The petitioner is mainly aggrieved by the award of the arbitrator on the counter claim of Rs.3,33,560.16 p. preferred by the respondent. It is beyond the pale of controversy that the supply order dated 23.10.1990 was placed by the Superintending Engineer Electricity O.P. Circle Chandigarh on the petitioner's firm, for the supply of items mentioned therein and the petitioner failed to execute the said order despite extension for the delivery period. as a result whereof the contract was cancelled by the respondent vide letter dated 18.11.1991. It is contended on behalf of the petitioner that supply order could not be executed due to late receipt of the test report from the National Guest House Ghaziabad. Learned counsel for the respondent submitted that the reasons assigned by the petitioner's firm for non execution of the supply order is a mere pretext to avoid the liability to pay damages for the loss suffered by the respondent. It is significant to mention that the contract was cancelled by the respondent vide letter dated 18.11.1991 at the risk and cost of the petitioner's firm. Thereafter, supply orders were placed on M/s. Ashoka Cables and M/s. Vaishnu Cables and the respondents suffered a loss of Rs.3,035,560.16 due to the breach committed by the petitioner firm. On a consideration of the material on the record the arbitrator allowed the counter claim of Rs.3,33,560.16p. preferred by the respondent. This court has no jurisdiction to substitute its own evaluation of the conclusion of fact by reexamining or reassessing the evidence produced before the arbitrator. The award on the counter claim is based on evidence and it does not suffer from any legal infirmity. Consequently, the objections filed by the petitioners are rejected. Issue No.1 is answered accordingly.

Issue No.2

5. For the reasons discussed above, the award dated 29th December, 1995 is made a rule of the Court. The said award shall form part of the decree. By the said award the petitioner is also entitled to recover a sum of Rs.1,97,614/ from the respondents and the same has to be adjusted against the award of Rs.3,33,560/. Consequently, the respondents are entitled to recover a sum of Rs.1.35,946/ from the petitioner. In addition, the respondents are also entitled to recover interest @ 12% per annum on Rs.1,35,946/ from the date of decree till realisation. A decree be drawn up accordingly.