
(1969) 07 DEL CK 0008

In the Delhi High Court

Case No : Civil Revision Appeal No. 13 of 1968

The Punjab State Electricity Board

APPELLANT

Vs

Ram Bansal

RESPONDENT

Date of Decision : 28-07-1969

Acts Referred:

Citation : (1969) 5 DLT 699

Hon'ble Judges : Jagjit Singh, J

Bench : Single Bench

Advocate : Sita Ram and S. Malhotra, for the Appellant;

Judgement

Jagjit Singh, J.

(1) On February 15, 1967, a petition purporting to be u/s 8 of the Arbitration Act, 1940 (Act No. 10 of 1940) was filed by Ch. Siri Ram Bansal, a contractor, in the Court of the Subordinate Judge, first class Kandaghat, District Simla. The relief asked for by the petitioner was that an independent arbitrator be appointed to settle the disputes between him and the respondent the Punjab State Electricity Board. The learned Subordinate Judge treated the petition to be one under sections 8 and 20 of Act No. 10 of 1940. He accepted the petition, on December 23, 1967, and appointed Shri T. L. Tandon, a retired Superintending Engineer, as the sole arbitrator. Against that order the respondent preferred the present revision.

(2) It was urged by Bakshi Sita Ram, learned counsel for the Punjab State Electricity Board, that the claim of Ch. Siri Ram Bansal being for more than eighty-four thousand rupees, the Subordinate Judge at Kandaghat had no jurisdiction to deal with the petition after the jurisdiction of the High Court of Delhi was extended to the Union Territory of Himachal Pradesh. The order of the learned Subordinate Judge was, Therefore, stated to be without jurisdiction. Section 2(c) of the Arbitration Act defines "Court" as under :-

"COURT" means a Civil Court having jurisdiction to decide the questions forming

the subject matter of the reference if the same had been the subject-matter of a suit, but does not, except for the purpose of arbitration proceedings u/s 21, include a Small Cause Court."

(3) It is only a Court as defined above that has jurisdiction to deal with petitions under different provisions of the Arbitration Act. At the time when the petition was made by Ch. Siri Ram Bansal undou. btedly the Court of the Subordinate Judge at Kandaghat had jurisdiction to deal with it.

(4) Section 5 of the Delhi High Court Act, 1966 provided that notwithstanding anything contained in any law for the time being in force the High Court of De hi shall also have in respect of the territories included in the Union Territory of Delhi ordinary original civil jurisdiction in every suit the value of which exceeds twenty-five thousand rupees. Section 17 made provision for extending the jurisdiction of the High Court of Delhi to the Union Territory of Himachal Pradesh from a date to be appointed by the Central Government by notification in the official gazette. Subsection (3) of section 3 empowered the Chief Justice of the High Court of Delhi to direct that the Judges and the Division Courts of the High Court of Delhi may sit at such place or places other than its principal seat as may be appointed with the approval of the President of India.

(5) The Central Government, through its notification No. 19-3/67-Judi-I New Delhi, dated 11 April, 1967, appointed the first day of May, 1967, as the date on and from which the jurisdiction of the High Court of Delhi was extended to the Union Territory of Himachal Pradesh. On April 28, 1967, the Chief Justice issued a notification, with the previous approval of the President of India, directing that two Judges of the High Court of Delhi shall sit at Simla singly or in Division Bench with effect from the 1st May, 1967.

(6) The result of the above-mentioned notifications, issued in pursuance of the provisions of the Delhi High Court Act, was that with effect from the 1st May, 1967, so far as the Union Territory of Himachal Pradesh was concerned, all suits the value of which exceeded twenty-five thousand rupees became triable by the High Court. Another consequence was that from the said date for purposes of petitions under the Arbitration Act in which the value of the subject matter of dispute exceeded twenty-five thousand rupees, the High Court became the "Court" in terms of section 2(c) of Act No. 10 of 1940 The Subordinate Judge at Kandaghat, Therefore, had no jurisdiction to deal with the petition of Ch. Siri Ram Bansal after the jurisdiction of the Delhi High Court was extended to the Union Territory of Himachal Pradesh as the subject-matter of the dispute admittedly exceeded rupees twenty- five thousand.

(7) Shri Sushil Malhotra, who appeared for Ch. Siri Ram Bansal, submitted that in the definition as given in section 2(c) of the Arbitration Act only a civil Court having jurisdiction to decide the questions forming the subject-matter of the reference if the same had been the subject-matter of a suit can be regarded as the "Court" and it was doubtful whether the High Court can be considered to be a

civil Court while trying a suit in exercise of its ordinary original civil jurisdiction. The other submission made by him was that the definition did not make it clear whether the jurisdiction was to be territorial or pecuniary.

(8) There can be no doubt that the High Court while trying a suit in exercise of its ordinary original jurisdiction is a civil court. The jurisdiction referred to in the definition of "Court", as given in section 2(c) of the Arbitration Act, has obviously to be both territorial and pecuniary.

(9) If the subject-matter of the reference which was desired by Ch. Siri Ram Bansal to be made to the arbitrator, to be appointed by the Court, had been the subject matter of a suit then due to the valuation of the subject-matter exceeding twenty-five thousand rupees such a suit would not have been triable by the Subordinate Judge, first class, Kandaghat, after the last day of April, 1967. Such a suit would have only been triable by the High Court. Jurisdiction to try the petition u/s ? of the Arbitration Act, though it was not a suit ceased to vest in the Subordinate Judge at Kandaghat from the 1st of May, 1967 and the petition was from that date triable by the High Court.

(10) The order of the learned Subordinate Judge was without jurisdiction. The revision is Therefore, accepted and the order, dated December 23, 1967, is set aside. Further the petition being triable by the High Court it should be registered in this Court and should be dealt with in accordance with law from the stage at which it immediately preceding the extension of the jurisdiction of the High Court of Delhi to the Union Territory of Himachal Pradesh. In the peculiar circumstances of the case there shall be no order as to costs regarding this revision.