
(1995) 04 DEL CK 0054

In the Delhi High Court

Case No : Interim Application No. 6618 of 1994 and Suit No. 505A of 1984

Union of India

APPELLANT

Vs

Dien Enterprises

RESPONDENT

Date of Decision : 26-04-1995

Acts Referred:

Citation : (1996) 36 DRJ 28

Hon'ble Judges : Jaspal Singh, J

Bench : Single Bench

Advocate : Sandeep Agarwal and Rajesh Bhatia, for the Appellant;

Judgement

Jaspal Singh, J.

(1) The objector seeks to get the Award set aside and it was on account of its objections that following issues were framed :

1. Whether the award is liable to be set aside for any of the reasons mentioned by the petitioner ?

2. Relief.

(2) The learned counsel for the objector submits that the Arbitrator has gone wrong inasmuch as he did not consider that the plant erected by the claimants suffered from number of defects and this final inspection was never done. He has further submitted that the claimant had agreed to supply more equipment which was never done and that this fact was also not taken into consideration by the Arbitrator. The last contention is that the plant was never commissioned and that consequently no commissioning charges could be allowed.

(3) As would be borne out from the Award itself all these points have been taken into consideration by the Arbitrator. As per the Arbitrator there had been too much delay on the part of the consignee in doing his part of the job due to which final inspection could not take place. He has further held that warranty period expired on March 9, 1977 and that consequently the claimant-contractor could

not be held liable beyond the warranty period. He has also taken hold of letters of 21st April, 1978 and 11th May, 1978 and other documents 10 show that the plant had been erected and commissioned.

(4) The Arbitrator has returned his findings on consideration of the material on record. His findings are not open to challenge either on the ground that he has reached a wrong conclusion or on the ground that he has failed to appreciate facts (See *Hindustan Tea Co. Vs. K. Sashikant Co. and Another*,). The Award makes it clear that the Arbitrator has considered all the issues raised by the parties. He has recorded his findings after giving cogent reasons. It cannot thus be said that Le has misconducted himself or in the proceedings (See :*Goa, Daman & Diu Housing Board v. Ramakant V.P. Darvotkar* Air 1991 Sc 2079).

(5) For the reasons recorded above I find no force in the objections raised. The Award is made a rule of the Court and decree is passed in terms thereof.