
(1999) 12 P&H CK 0140
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 2240 of 1994

Union of India (UOI)

APPELLANT

Vs

Virendra Brothers

RESPONDENT

Date of Decision : 07-12-1999

Acts Referred:

Arbitration Act, 1940 — Section 20

Citation : (2000) 126 PLR 547 : (2000) 2 RCR(Civil) 607

Hon'ble Judges : Amar Dutt, J

Bench : Single Bench

Advocate : S.K. Sharma, for the Appellant; J.R. Mittal and B.D. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Amar Dutt, J.—This revision petition seeks to challenge the order dated 20.12.1992 passed by the Senior Sub Judge, Bathinda.

2. M/s. Virendra Brothers, Engineers and Contractors moved an application u/s 20 of the Indian Arbitration Act for issuance of directions to the petitioners to file the contract in the Court for appointment of an Arbitrator as per condition No. 70 of the IAFW-2249 and for referring the dispute between the parties for decision to the Arbitrator. According to the applicant, it had entered into a contract with the petitioners for construction of Raw Water Reservoir and Raw Water Sump and Clear Water Reservoir etc. at village Lalgah Jattan vide contract No. CE/BTZ 11/81-82. As per the contract, after the work was completed and handed over to the petitioners, the applicant was required to carry out some additional work. The additional work was also covered and regulated by the terms of the original contract and this too was duly completed as per the requirements of the petitioners. According to the applicant, an amount of Rs. 12,12,547/- was payable to it and despite verbal and written requests, the same was not being released. A letter had been written by the applicant to the petitioners for referring the matter to arbitration, but the Chief Engineer had, through letter

dated 26.5.1989 refused to appoint the Arbitrator. Hence the application.

3. In the written reply, it was submitted by the respondents (petitioners herein) that a final bill had been submitted by the applicant and according to condition No. 65, no further claim could be entertained after submission of the final bill. It was also submitted that the applicant had not served any notice immediately after completion of the work and all claims of the applicant had been fully paid. On the basis of the stand taken by the parties, following issues were framed:

"1. Whether the matters in dispute are liable to be referred to arbitration for adjudication? OPA

2. Whether the application is not maintainable in view of condition 65 of the IAFW - 2249? OPR

3. Relief."

The trial Court after recording the evidence, heard the arguments and decided issues -1 and 2 in favour of the applicants with the result that a direction was issued to the Engineer-in-Chief to appoint an Officer as the sole Arbitrator, who would give an Award within 4 months from the date of entering upon the reference. The Union of India and the Chief Engineer have come up in revision.

4. I have heard counsel for the parties.

5. Sh. Sharma appearing on behalf of the petitioners has tried to assail the impugned order on the ground that in view of the fact that a final bill had been submitted which admittedly had been paid off, there was no occasion for the Court below to order the appointment of an arbitrator. This submission, I am afraid, will have to be rejected in view of the admitted position that after the submission of the final bill, the applicant had been required to do certain jobs. The stand of the petitioners before the Court below was that the amounts payable to the respondent-applicant on account of the jobs done after the submission of the final bill had already been paid. In view of the specific plea taken by the applicant to the contrary the matter would definitely constitute an arbitrable dispute.

6. In this view of the matter, I feel that the Court below was fully justified in issuing directions to the effect that the petitioners should refer for arbitration the dispute raised by the applicant.

For the reasons recorded above, this revision petition fails and the same is hereby dismissed.