

(2009) 07 BOM CK 0132

In the Bombay High Court

Case No : Appeal from Order No. 56 of 2003

Union of India (UOI) Service and Others

APPELLANT

Vs

Dhal Constructions Company

RESPONDENT

Date of Decision : 21-07-2009

Acts Referred:

Citation : (2009) 07 BOM CK 0132

Hon'ble Judges : A.H. Joshi, J

Bench : Single Bench

Advocate : J. Vaz, for the Appellant; S. Usgaonkar instructed by Sudin M.S. Usgaonkar, for the Respondent

Final Decision : Dismissed

Judgement

A.H. Joshi, J.—Heard learned Advocate Mr. J. Vaz for the Appellants and of Mr. Usgaonkar, Sr. Advocate for the Respondents.

2. This is an appeal by Union of India, aggrieved by the impugned Judgment and Order dated 28.4.2003 passed by the Civil Judge Senior Division at Mapusa in C.M.A. No. 295/97/B and Special Civil Suit No. 97/97/B, thereby making the arbitral award the rule of court and dismissing present appellants' objections to the arbitral award.

3. Claims made by the contractor before the arbitrator and which were allowed are as follows:

4. Interest has been granted on the amount granted in the award.

5. Perusal of arbitral award discloses that certain facts are held proved in favour of contractor. Those are as follows:

(a) Procurement and availability of the machinery on site is not in dispute.

(b) Though vouchers towards hire charges are not produced by the contractor procurement of machinery cannot be without costs.

(c) The amount awarded under claim No. (3) i.e. cost of a hire charges for procurement of machinery is of Rs. 21,000/- against the claim of Rs. 1,62,000/-.

6. The award of Rs. 21,000/- under the hire charges is too meagre to need reasons for award for such amount.

7. It is common knowledge that the functions and duties of the Arbitrator are not comparable or equated or to be equated with those of the courts.

8. In this situation, in the background the knowledge, experience of special distinct role of the arbitrator needs to be honoured. If the exact foundation in terms of evidence which has led the arbitrator to the meagre amount of Rs. 21,000/- is not found in the award, it cannot be regarded as a serious lapse or misconduct which could vitiate the award. Moreover such an award is not a precedent.

9. The appellants have not shown that the award towards the claim head No. 1 and 5 is contrary to record and terms of contract.

10. Awarding the interest on the claims granted in the award is also within four corners of the powers of the arbitrator.

11. The award therefore cannot be faulted and hence cannot be held vitiated. Appeal does not call interference and is rejected with costs.