

(2024) 03 J&K CK 0010

In the Jammu And Kashmir High Court

Case No : Arbitration Application No. 34 Of 2022

UOI Represented By The Chief Engineer Project Sampark
Care Of 56 AP

APPELLANT

Vs

M/S Daljit Singh And Bros 22 Golden Avenue Amritsar
(Punjab State)

RESPONDENT

Date of Decision : 04-03-2024

Acts Referred:

Jammu And Kashmir Arbitration And Conciliation Act, 1997 — Section 34

Citation : (2024) 03 J&K CK 0010

Hon'ble Judges : Sanjeev Kumar, J

Bench : Single Bench

Advocate : Vishal Sharma

Final Decision : Dismissed

Judgement

Sanjeev Kumar, J

1 This is an application by the UOI under Section 34 of the J&K Arbitration and Conciliation Act, 1997 [‘the Act of 1997’] for setting aside the award dated 24.04.2002 published by the Sole Arbitrator Col. L. Padmanaban, the then Commander 35 BRTF (P) Beacon in a case titled ‘Chief Engineer, Project Sampark vs M/S Daljit Singh and Bros.

2 The impugned award is assailed by the UOI-applicant on the ground that the learned Arbitrator has exceeded his jurisdiction by adjudicating claim No. 1 to 5 and 7 raised by the respondent-Contractor and, therefore, the award was beyond the terms of the submission to arbitration. Learned Arbitrator has also mis-conducted by not considering and adjudicating claim No.1 raised by the applicant. The non-applicant had appeared earlier and then absented. Objections too have been filed whereby the claim of the applicant is contested by the non-applicant.

3 Heard learned counsel for the applicant and perused the material on record in

particular the award placed on record.

4 From a reading of the award, it clearly transpires that the award heavily tilts in favour of the applicant and is virtually not in favour of non-applicant and yet the applicant is aggrieved. The Arbitrator has accepted the plea of the applicant that there was some delay in execution of the work and has compensated it by awarding a sum of Rs.1,84,877/-. The Arbitrator has also compensated the applicant on account of failure of the non-applicant to pay the cost of Bitumen and on this count, a sum of Rs.83,245/- has been awarded to the applicant. As against the impugned award passed in favour of the applicant, the non-applicant/respondent has only been awarded a sum of Rs. 83,377/-i.e on account of the cost of work done and not paid. Rest of the amount awarded in favour of the non-applicant/respondent is security deposit, retention money and earnest money deposit, which, in any case, is the money belonging to the non-applicant-contractor. The Arbitrator has, while considering each claim returned its findings with reasons and same cannot be gone into by this Court while adjudicating an application under Section 34 of the Act of 1997. There is no other instance of misconduct, either alleged or proved before this Court. The award is completely balanced and takes care of the concerns voiced by both the parties with regard to execution of works contract.

5 Since the applicant could not prove breach of contract on part of the non-applicant by leading any cogent evidence and, therefore, the Arbitrator rightly directed the applicant-UOI to return security deposit, retention money and earnest money deposit in favour of the respondent.

6 Viewed from any angle, no ground as enumerated in Section 34 of the Act of 1997 is made to set aside the award. The application is, accordingly, dismissed.