

Ghaziabad Development Authority, Ghaziabad and Others Vs. S.K. Gupta and Others

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Court : Allahabad

Decided On : Dec-01-1999

Reported in : 2000(2)AWC1037

Judge : P.K. Jain, J.

Acts : [Arbitration and Conciliation Act, 1996](#) - Sections 21, 32 (1), 34, 34 (2), 35, 36, 75, 81, 85 (1) and (2); [Arbitration Act, 1940](#) - Sections 8, 14, 14 (2), 15, 16, 17, 20, 30, 33 and 37; [Code of Civil Procedure \(CPC\), 1908](#) - Sections 115; Indian Limitation Act, 1908 - Schedule - Article 158; Indian Limitation Act, 1963 - Article 119

Appeal No. : Civil Revision Nos. 428 and 429 of 1997

Appellant : Ghaziabad Development Authority, Ghaziabad and Others

Respondent : S.K. Gupta and Others

Advocate for Def. : R.K. Jain and ;K.M. Garg, Advs.

Advocate for Pet/Ap. : V.M. Sahai and ;A.K. Mishra, Advs.

Judgement :

P. K. Jain, J.

1. These two revisions arise out of two separate orders dated 12.12.1997 passed by Vth Additional Civil Judge, Ghaziabad in Execution Case Nos. 18 of 1997 and 17 of 1997 respectively.

2. The opposite parties had filed two suits being Suit No. 553 of 1993 S.K. Gupta and 3 others v. Ghaziabad Vikas Pradhikaran, Ghaziabad and Suit No. 669 of 1995, S. K. Gupta and 3 others v. Ghaziabad Vikas Pradhikaran and others under Sections 8 and 20 of the Indian Arbitration Act in which main prayer was that in view of the contract between the parties the dispute be referred to the arbitrator. Both the suits were decided by judgments dated 10.11.1993 and 4.5.1996 respectively. Both the suits were decreed. Ultimately Sri Shailendra Saxena was appointed as arbitrator, who completed the arbitration proceedings and gave awards dated 19.12.1996 and 26.8.1996 respectively. It is the case of the opposite parties that after giving notice to the parties for the awards the arbitrator filed the award in the Court and the revisionists did not file any objection against the awards under Sections 15, 16 and 33 of the [Arbitration Act, 1940](#). It further appears that after expiry of the time for filing objections, the opposite parties filed two execution applications on the basis of which Execution Cases Nos. 18 of 1997 and 17 of 1997 respectively were registered. Execution Case No. 18 of 1997 was filed on 12.9.97 and Execution Case No. 17 of 1997 was filed on 4.9.1997.

3. It further appears that notices were issued to the revisionists. A preliminary objection was raised on behalf of the revisionists that the execution cannot proceed unless the award is made rule of the Court and a decree is passed under Section 17 of the Indian Arbitration Act, 1940. It appears that it was argued for the opposite parties that since the award has been filed in the Court and no objections under Section 34 of the Arbitration and Conciliation Act of 1996 (Act 26 of 1996) have been filed, the award has become final and it can be executed as a decree in view of the provisions contained in Section 36 of the Act 26 of 1996. By the impugned orders in both the execution cases the Court rejected the objections raised on behalf of the revisionists vide impugned orders dated 12.12.1997. It is these orders which are being challenged in these revisions.

4. Since common questions of law are involved in both the revisions, both the revisions have been heard together and are being decided by a common judgment.

5. Sri A.K. Mishra, learned counsel for the revisionists and Sri R.K. Jain, learned senior counsel assisted by Sri K.M. Garg, learned counsel for the opposite parties have been heard at length.

6. The submission of Sri Mishra is that since request for referring the matter to the arbitrator was made prior to coming into force of Act No. 26 of 1996 and that the revisionists had neither agreed nor consented that the provisions of Act No. 26 of 1996 shall be applicable in the present matters in view of the provisions contained in Section 85(2) of Act No. 26 of 1996, the proceedings could be continued and disposed of under the provisions of Indian Arbitration Act of 1940 (hereinafter called as the old Act). He submits that after the award was given by the arbitrator, in view of the provisions contained in Section 17 of the old Act a Judgment ought to have followed and thereafter a decree was required to be framed by the Court in accordance with the judgment and that decree alone could be put to execution, He submits that filing of the award in Court would not amount to executable decree. His submission is that the execution proceedings-were not maintainable and the Court below has committed error of law in passing the impugned orders. Sri Jain appearing for the opposite parties has, however, raised a preliminary objection that the revisions under Section 115 of the C.P.C. are not maintainable. Besides the preliminary objection it is submitted that before the award was put to execution. Act 26 of 1996 was enforced. Section 34 of which provides for setting aside of the arbitral award on the grounds mentioned in Section 34 on an application by a party aggrieved by the award. It is submitted that no such application was moved by the revisionists. Therefore, the award has become final in view of the provisions contained in Section 36 of Act No. 26 of 1996. Under Section 36 of the new Act there is no need of framing of a decree and the award can be enforced in the manner as if it were a decree of the Court. Alternatively it is argued that under the old Act also after notice of the award was given to the revisionists by the arbitrator or by the Court objections could be filed by the revisionists for modifying the award under Section 15 of the old Act or to remit the

award on the grounds mentioned in Section 16 of the old Act or for setting aside the award under Section 33 of the old Act on the grounds mentioned in Section 30 of the old Act. Such application could be moved within the period of limitation provided under Indian Limitation Act and if no such objections are filed, the award becomes final and the pronouncement of the judgment according to the award and framing of the decree is only a formality.

7. As regards preliminary objection raised by Sri Jain regarding maintainability of the revisions. I am of the view that the objection is not sustainable. It is true that the proviso (2) to Section 115 of the C.P.C. as applicable in the State of Uttar Pradesh provides that the High Court or the District Judge shall not under Section 115 of the C.P.C. vary or reverse any order including an order deciding an issue, made in the course of a suit or other proceeding except where CO the order, if so varied or reversed, would finally dispose of the suit or other proceedings ; or (ii) the order if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made. The impugned orders cannot be interfered with in exercise of revisional Jurisdiction only if they fall under any of the two clauses of the above proviso. In case the impugned orders are reversed. In the instant case the proceedings would not be finally disposed of. The Court would be required to proceed in accordance with the provisions of Section 17 of the old Arbitration Act if the impugned orders are reversed. Therefore, the revisions may not be maintainable under clause (i) of the proviso. However, as argued by Sri Mishra irreparable injury shall be caused to the revisionists in case the orders are allowed to stand. As would be found in the instant case the provisions of Sections 34 and 36 of Act 26 of 1996 are not applicable and the execution cannot proceed without complying with the provisions of Section 17 of the old Act. If the order is allowed to stand this would cause irreparable injury to the revisionists. Therefore, I hold that the present revisions are maintainable.

8. Now comes the question whether the provisions of the old Act are applicable or the provisions of Act 26 of 1996 shall be applicable to the present case. It would be relevant to quote the provisions of the two Acts before dealing with the controversy in question. After arbitral award is made by the arbitrator the same can be set aside only by a competent Court. Section 34 of Act 26 of 1996 is

relevant in this regard which is reproduced as below.

'Section 34. Application for setting aside arbitral award.-- (1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with subsection (2) and sub-section (3).

(2) An arbitral award may be set aside by the Court only if :

(a) the party making the application furnishes proof-that :

(i) a party was under some incapacity, or

(ii) the arbitration agreement is not valid under the law to which the parties have subjected to or, failing any indication thereon, under the law for the time being in force ; or

(iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case ; or

(iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration :

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside ; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this part from which the parties can not derogate, or failing such agreement, was not in accordance with this part; or

(b) the Court finds that :

(i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or

(ii) the arbitral award is in conflict with the public policy of India.

Explanation.--Without prejudice to the generality of sub-clause (ii), it is hereby declared, for the avoidance of any doubt, that an award is in conflict with the public policy of India if the making of the award was induced or affected by fraud or corruption or was in violation of Section 75 or Section 81.

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under Section 33, from the date on which that request had been disposed of by the arbitral tribunal :

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter,

(4) On receipt of an application under sub-section (1), the Court may, where it is appropriate and it is so requested by a party, adjourn the proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the opinion of arbitral tribunal, will eliminate the grounds for setting aside the arbitral award.'

9. The arbitral award may be set aside by the Court on the grounds mentioned in sub-section (2 (a) and (b) of Section 34. Sub-section (3) further provides that the application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award though under the proviso, the Court may extend the period on being satisfied that the applicant was prevented by sufficient cause from making the application within the said period of 3 months. However, the extension may be if the application is made within further period of 30 days, but not thereafter, Section 35 of Act 26 of 1996 gives finality to the award and provides about its binding effect on the party unless it is set aside under Section 34. Section 36 further provides that once the award has become final either by rejection of the objection under Section 34 or by lapse of time for making an application for setting aside the arbitral award under Section 34, the award shall be enforced under the Code of

Civil Procedure in the same manner as if it were the decree of the Court. Subsection (1) of Section 85 repeals Arbitration Act of 1940 and other Acts as mentioned in sub-section (1) of Section 85. Sub-section (2) of Section 85 however, reads as follows.

'2. Notwithstanding such repeal :

(a) the provisions of the said enactments shall apply in relation to arbitral proceedings which commenced before this Act came into force unless otherwise agreed by the parties but this Act shall apply in relation to arbitral proceedings which commenced on or after this Act comes into force :

(b) all rules made and notifications published, under the said enactments shall, to the extent to which they are not repugnant to this Act, be deemed respectively to have been made or issued under this Act.'

10. Sub-clause (a) of sub-section (2) of Section 85 of Act No. 26 of 1996 specifically saves the proceedings which had commenced before coming into force of the 1996 Act and further provides that the provisions of the old Arbitration Act shall apply in relation to arbitral proceedings which commenced before this Act came into force unless otherwise is agreed by the parties. It further provides that the Act of 1996 shall apply in relation to arbitral proceedings which commenced on or after 1996 Act came into force. Thus, if proceedings had commenced prior to enforcement of Act 26 of 1996, such proceedings shall be continued and concluded under the provisions of the old Act unless there is an agreement between the parties or if the other party has consented regarding applicability of the provisions of Act 26 of 1996-Undisputedly there was no agreement between the parties nor the revisionists had consented that the provisions of Act 26 of 1996 shall be applicable to the arbitral proceedings in question.

11. The facts further disclose that the requests by the opposite parties for making a reference to the arbitration were made in the year 1993 and on refusal of the revisionists to refer the matter to the arbitration Suit No. 553 of 1993 was filed. Similarly, in other case request for referring the matter to the arbitration was made some time in the year 1993 and the suit for referring the matter to the arbitration

was filed in the year 1995, i.e., on 31.5.95. The Arbitration and Conciliation Act of 1996, was enforced w.e.f. 26.1.96. Sub-section (3) of Section 3 provided that it shall be deemed to have come into force on such date as the Central Government may by notification in the official Gazette appoint. Though notification in the Official Gazette of the Government of India was made on 22.8.96, yet prior to that an Ordinance came in force w.e.f. January 25, 1996. Thus the provisions of Act No. 26 of 1996 which were in the form of an Ordinance prior to the passing of the Act by the Parliament on August 19, 1996 and its Gazette Notification dated August 22, 1996 were enforced from January 26, 1996. The question, therefore, arises whether on that date arbitral proceedings in the present two cases had commenced or not. In this regard the provisions of Section 21 of Act No. 26 of 1996 are relevant. Section 21 provides that unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent. It is not the case of the parties and there was no agreement between the parties as to when the arbitral proceedings in respect of the present disputes shall be deemed to have commenced. Therefore, to find out as to when the arbitral proceedings commenced, the provisions of Section 21 of Act No. 26 of 1996 shall be attracted. Admittedly, in both the disputes the requests for referring the matter to the arbitration were made some time in the year 1993 and suits under Sections 8 and 20 of the Indian Arbitration Act, 1940, were filed prior to the commencement of Act No. 26 of 1996. Therefore, the proceedings in the arbitral cases shall be deemed to have commenced prior to enforcement of Act No. 26 of 1996. In view of the provisions contained in sub-section 2(a) of Section 85 of the new Act, the proceedings shall have to be continued and concluded in accordance with the provisions of the old Act.

12. Similar question arose before the Supreme Court in *Shetty's Constructions Co. Pvt. Ltd. v. Konkan Railway Construction and another*, (1998) 5 SCC 599. In that case the dispute was sought to be referred to arbitration by lodging a claim with the respondent-authorities prior to enforcement of the Act No. 26 of 1996 and not only that suits were also filed under Sections 8 and 20 for invoking the provisions of [Arbitration Act, 1940](#), prior to 26.1.96. The controversy before the Supreme Court was whether in the facts and circumstances the provisions, of old Act or the New

Act were applicable to the arbitral proceedings. It was held by the Supreme Court that:

'for resolving this controversy we may turn to Section 21 of the new Act which lays down that unless otherwise agreed to between the parties, the arbitration suit in respect of arbitration dispute commenced on that date on which the request for referring the dispute for arbitration is received by the respondents. Therefore, it must be found out whether the request by the petitioner for referring the disputes for arbitration were moved for consideration of the respondents on and after 26.1.1996 or prior thereto. If such requests were made prior to that date, then on a conjoint reading of Section 21 and Section 85(2)(a) of that new Act, it must be held that these proceedings will be governed by the old Act. As seen from the aforementioned factual matrix, it at once becomes obvious that the demand for referring the disputes for arbitration was made by the petitioners in all these cases months before 26.1.96, in March and April. 1995 and in fact thereafter all the four arbitration suits were filed on 24.8.95. These suits were obviously filed prior to 26.1.96 and hence they had to be decided under the old Act of 1940.'

13. It has been argued on behalf of the opposite parties that arbitration proceedings concluded with the filing of the awards by the arbitrator in the Court after serving notice upon the revisionists. Time for filing objections under Section 34 had elapsed and no objections were filed. In view of the provisions contained in Section 35 of Act No. 26 of 1996 the award had become final and once the award had become final either by rejection of the objections under Section 34 or by lapse of time for making an application for setting aside the arbitral award, the award could be enforced under the provisions of the Code of Civil Procedure as if it were decree of the Court. It is submitted that in the instant case no objections were filed nor any such application was moved for setting aside the arbitral awards by the revisionists within the period of limitation as provided by Section 34 the arbitral awards having become final the award could be executed in view of the provisions contained in Section 30 of the new Act. So far as the factual matrix is concerned, no controversy has been raised in this regard by the revisionists. In the counter-affidavits filed by the opposite parties in the two revisions, it is categorically stated that the arbitrator gave his award dated 19.12.96 and after giving notice to the

parties concerned the award was submitted in the Court concerned on 19.12.96 (in respect of Execution Case No. 18 of 1997) and the award was given on August 26, 1996 and after giving notice to the parties the same was filed in the Court of learned Civil Judge. Ghaziabad on 9.9.96 (in respect of Execution Case No. 17 of 1997). It is also categorically stated in the counter-affidavits that no objections for setting aside the awards were ever filed by the revisionists. The question, therefore, in the circumstances arises as to when the awards will become final as well as executable. It is no doubt true that if the proceedings were under the new Act (Act No. 26, of 1996) the provisions of Sections 35 and 36 of the new Act are clear that the award shall become final in case it is not set aside under Section 34 of the Act or if the objections filed under Section 34 of the Act are rejected. Once the award has become final, it will be executable as a decree of the Court in view of the provisions contained in Section 36 of the new Act. However, if the provisions of new Act are not applicable and the provisions of old Act viz., the [Arbitration Act, 1940](#) were applicable, then mere filing of the award shall not make it final or executable as a decree of the civilcourt. Even though sub-section (1) of Section 32 of the new Act provides that the arbitral proceedings shall be terminated by the final arbitral award or by an order of the arbitral tribunal under sub-section (2), yet under the old Act the arbitral award cannot be executed unless it is followed by a judgment of the Court making the award as rule of the Court and thereafter framing a decree in accordance with the judgment. Section 17 of the old Act specifically provides that 'where the Court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration or to set aside the award, the Court shall, after the time for making an application to set aside the award has expired, or such application having been made, after refusing it, proceed to pronounce judgment according to the award, and upon the Judgment so pronounced a decree shall follow and no appeal shall lie from such decree except on the ground that it is in excess of, or not otherwise in accordance with the award.' Therefore, after the award is filed in the Court, the Court is required to dispose of the objections if any. made under Sections 15, 16 or 33 read with Section 30 of the Act, in case such objections are filed, then in a case where objections are rejected or in other cases where no such objections are filed, after the time for making such objections for setting aside the award has expired, the

Court is required to pronounce the Judgment in accordance with the award. After the Judgment is pronounced, a formal decree is to be framed upon the Judgment so pronounced. It is on decree passed by the Court after making the award as rule of the Court by pronouncement of the judgment in accordance with the award that the execution proceedings may be initiated and the decree may be put to execution. This is vital difference between the provisions of the new Act and the old Act. Under the provisions of the old Act before the award is put to execution, it is necessary that there should be a judgment of the Court in accordance with the award and it should be followed by a formal decree of the Court and that decree alone can be put to execution whereas under the new Act (Act No. 26 of 1996), there is no need of pronouncement of any Judgment in accordance with the award or framing of a formal decree. It is only when the awards have become final as mentioned above, the same can be put to execution as if the awards itself were the decree of the Court. There is no necessity of the award being made rule of the Court by pronouncing a judgment and framing a formal decree. In the instant case, the provisions of Section 17 of the old Act have not been followed. Therefore, the revisionists are right in objecting that without pronouncing the judgment and making the awards rule of the Court and further framing a formal decree, the awards itself cannot be put to execution. The Court below has wrongly interpreted the provisions of law. Once it is found that the arbitral proceedings had commenced prior to January 26, 1996 and there was no agreement between the parties that the proceedings may be continued under the provisions of the new Act, the proceedings have to be concluded under the old Act and can be executed only after procedure under the old Act has been followed. Therefore, the submission of Sri Jain that the awards having become final can be put to execution as decree of the Court under Section 36 of the new Act cannot be accepted. The view taken by the Court hereinabove also finds support from a recent judgment of the Hon'ble Supreme Court rendered in Thyssen Stahlunion GMBH v. Steel Authority of India Ltd., JT 1999 (6) SC 66.

14. Now comes alternative argument of Sri R.K. Jain, learned senior counsel. It has already been observed above that the opposite parties have categorically alleged in the counter-affidavits that the awards were filed by the arbitrator in the Court after giving due notice to the revisionists. They did not file objections under

Sections 15, 16 or 33 read with Section 30 of the old Act for modification of the awards or for remitting the awards or for setting aside of the awards. Section 37 of the old Act provides that all the provisions of the Indian Limitation Act shall be applicable to arbitration as they apply to the proceedings of the Court. Article 158 under the Indian Limitation Act, 1908 and Article 119 (b) of the Indian Limitation Act, 1963, provide that the limitation for making an application for setting aside the award or getting an award remitted for reconsideration is 30 days from the date of service of the notice of the filing of the award. The averments made in the counter-affidavits have not been controverted by filing rejoinder-affidavit or by showing during arguments that any application for setting aside of the award or getting the award remitted for reconsideration was made within the period of limitation. It was held by the Supreme Court in the case of Nilkantha Sidramappa Ningashetti v. Kashjinath Somanna Ningashetti and others. AIR 1962 SC 666, that 'subsection (1) of Section 14 of the Arbitration Act, 1940 requires the arbitrators or umpire to give notice in writing to the parties of the making and signing of the award. Sub-section (2) of that section requires the Court after the filing of the award, to give notice to the parties of the filing of the award. The difference in the provisions of the two sub-sections with respect to the giving of notice is significant and indicates clearly that the notice which the Court is to give to the parties of the filing of the award need not be a notice in writing. The notice can be given orally. No question of the service of the notice or tendering it to the party can arise in the case of a notice given orally. The communication of the information that an award has been filed is sufficient compliance with the requirements of sub-section (2) of Section 14 with respect to the giving of the notice to the parties concerned about the filing of the award.' in the instant case, it is not disputed that the revisionists had due notice of filing of the awards in the Court but till date no objections/applications for setting aside the awards or remitting the same for reconsideration or for modification of the awards have been made. The awards have, therefore, become final and the Court is only required to pronounce the Judgment in accordance with the two awards and thereafter frame a formal decree. Therefore, there is substance in the argument of Sri R.K. Jain, learned senior counsel appearing for the opposite parties that once the awards have not been set aside and the time of making the application for setting aside the awards has lapsed, the Court is only

required to pronounce the Judgment in accordance with the awards and frame a formal decree. A Division Bench of this Court in *Lala Madan Lal Haveliwala v. L. Sunder Lal and another*, AIR 1964 All 38, had occasion to interpret the provisions of Sections 14(2) and 33 of the Arbitration Act and the effect of non-filing of application under Sections 15, 16 and 33 of the Act. It was held by the Court that 'when an award is filed in Court, it has to give notice to the parties of the filing of it, see Section 14(2) of the Arbitration Act. The notice is simply of the fact of the filing of the award. It is not to require the parties to do anything because it is for them to do what they desire to do

The law, therefore, does not contemplate a situation in which an award has not been remitted or set aside and no decree also on its basis has been passed. It requires that if an award is not remitted or set aside a decree on its basis must be passed : there is no alternative to it....

The period for such an application is vide Article 158 of the Limitation Act. 30 days computed from the date of service of the notice given under Section 14(2) of the filing of the award.'

It was held that 'if a party wants to have the award remitted or modified or corrected in accordance with the provisions of Sections 15 and 16 it should make an application for this purpose to the Court. If it does not make any such application and consequently the Court sees no reason to remit the award or to set it aside it is obliged by Section 17 to pass a decree on its basis.' it was further held that 'when the time for so applying expired the award became immune from the liability of being set aside and when concedely there was 'no case for remitting it, it had to be made a rule of the Court.'

That was a case in which after notice was served upon the appellant the appellant filed written statement taking objection for setting aside the arbitral award but there was no prayer and no kind of relief was sought. The Court fee of Rs. 18. 12 and odd for staying the arbitral award was also not made. The document was not stamped at all and obviously it was treated as a written statement. The Court did not treat such objection filed under Section 14(2) or an application under Section 33 for setting aside the award and the appeal was dismissed by the Court.

It appears that against the said judgment of the High Court an appeal was taken by the appellant to the Supreme Court being Civil Appeal No. 990 of 1964 which was decided by the Supreme Court on 9.3.67, The Judgment was reported in AIR 1967 SC 1233. The Supreme Court affirmed the judgment of the High Court and dismissed the appeal. It held that 'If a party wants an award to be set aside on any of the grounds mentioned in Section 30 it must apply within 30 days of the date of service of notice of filing of the award as provided in Article 158 of the Limitation Act, if no such application is made the award can not be set aside on any of the grounds specified in Section 30 of the Act. It may be conceded that there is no special form prescribed for making such an application and in an appropriate case an objection of the type made in this case may be treated as such an application if it is filed within the period of limitation. But if an objection like this has been filed after the period of limitation it cannot be treated as an application to set aside the award, for if it is so treated it will be barred by limitation. 'It was also held by the Supreme Court that 'there can be no doubt on the scheme of the Act that any objection even in the nature of a written statement which falls under Section 30 cannot be considered by the Court unless such an objection is made within the period of limitation (namely. 30 days) though such an objection may in appropriate cases be treated as an application for setting aside the award.'

15. Thus, the well-settled view is that if objections under Section 30 for setting aside the award are not made to the competent Court within the period of limitation, i.e., 30 days, such objections cannot be entertained and the Court is bound to pronounce the judgment in accordance with the award and such Judgment is followed by formal decree to be framed by the Court. The result of the aforesaid discussions in the facts and circumstances of the case is that even though the Executing Court cannot proceed with the execution without following the procedure provided under Section 17 of the old Act, it is now simply a formality to be observed by the Court concerned in which the two awards were filed to pronounce judgment in accordance with award followed by a decree and the Executing Court can proceed with the execution cases only after the provisions of Section 17 of the old Act are complied with.

16. In view of the forgoing discussions, both the revisions are allowed. The impugned orders are set aside. However, it is made clear that the Executing Court may proceed with the execution after the Court in which the awards are filed follows the procedure as provided under Section 17 of the [Arbitration Act, 1940](#). Till a decree as provided under Section 17 of the old Act is framed, the execution proceedings shall remain in abeyance. If the decrees are framed and filed in the Executing Court, the Executing Court may proceed with the execution cases. In the facts and circumstances of these cases, the costs are made easy. Records of Court below shall be returned forthwith.

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