

Central Coalfields Ltd. and ors. Vs. Smt. Usha Sharma

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Court : Jharkhand

Decided On : Feb-27-2003

Reported in : [2004(1)JCR256(Jhr)]

Judge : Gurusharan Sharma, J.

Acts : [Arbitration Act, 1940](#) - Sections 14(2), 20, 30, 33 and 39(6)

Appeal No. : A.F.O.O. No. 264 of 1996 (R)

Appellant : Central Coalfields Ltd. and ors.

Respondent : Smt. Usha Sharma

Advocate for Def. : P.K. Prasad and; Basav Chatterjee, Adv.

Advocate for Pet/Ap. : Debi Prasad, Sr. Adv. and; Suresh Prasad, Adv.

Disposition : Appeal dismissed

Judgement :

Gurusharan Sharma, J.

1. Heard the parties M/s. Ratan Roadways. Jharia. Dis-trict-Dhanbad a transporter entered into a contract with M/s. Central Coalfields Limited (for short CCL) Regional Stores at Kuju for transportation of cement as per letter dated 5.9.1984 issued by the Deputy Chief Engineer (Civil) Kuju Area.

2. Smt. Usha Sharma wife of Sri Ram Ratan Sharma claiming to be proprietor of M/s. Ratan Roadways raised dispute regarding calculation of transportation charges by the CCL.

3. In the meantime. CCL filed Money Suit No. 24 of 1987 for realization of excess amount to the tune of Rs. 3,80,750/- paid to the transporter.

4. On the other hand, on behalf of the transporter an application under Section 20 of the Arbitration Act. 1940. (hereinafter to be referred to as 'the Act') was filed, which was registered as Title Suit No. 118 of 1987 in the Court of the Subordinate Judge. Hazaribagh whereby the aforesaid dispute was referred to arbitration. In the said arbitration proceeding CCL advanced counter claim of the aforesaid amount, which was subject matter of the money suit and the arbitrator gave award on 10.5.1996.

5. By impugned order dated 20.8.1996, the said award has been made Rule of the Court. The CCL. has, therefore, filed the present appeal, under Section 39(6) of the Act. In course of the proceeding for making award Rule of Court. CCL filed objection under Sections 30 and 33 of the Act, which was held to be barred by time.

6. After the arbitrator signed award on 10.5.1996, a notice was given on 12.5.1996 to the parties about the same. On 14.5.1996, the award was filed in Court, but before the notice under Section 14(2) of the Act was Issued. M/s. Central Coalfields Limited appeared in the proceeding on 5.6.1996 and made prayer for granting time to file objection, which was allowed and ultimately on 4.7.1997, the objection under Sections 30 and 33 of the Act was filed.

7. The CCL. was given notice of the award by the Arbitrator on 13.5'. 1996 and it also got information about filing of the said award in Court for being made Rule of the Court before 5.6.1996 and as such suo motu appeared in Court on 5.6.1996 and filed petition for time to file objection under Section 30 and 33 of the Act.

8. In this regard reference may be made to a decision of the Apex Court in Nilkantha Shldramappa NIngashettl v. Kashinath Somanna Ningashettl, AIR 1962

SC 666, wherein it was held that communication by the Court to the parties concerned or their counsel, of the information that an award has been filed was sufficient compliance with requirements of Sub-section (2) of Section 14 of the Act. The notice need not necessarily mean communication in writing.' The expression 'given notice' in Section 14(2) simply means giving information of the filing of the award. Such intimation need not be given in writing and could be communicated orally or otherwise. That would amount to service of the notice, when no particular mode was specified.

9. In the-present case, in my opinion, the conclusion would irresistibly be that the notice was served at least on the 5th June, 1996, when the appellant had appeared and acknowledged that the award had been filed and had prayed for time to file objection thereto. So the appellant had notice of the said filing of the award.

10. In order to be effective, both for the purpose of obtaining the judgments in terms of the award and for setting aside the award, the award must be filed in Court. There must be service of notice or intimation or communication of the filing of the said award to the parties. The parties must get notice of the award having been filed in Court.

11. In view of the facts of this case that firstly the arbitrator served notice on the parties on 13th May 1996, regarding signing of the award and the CCL also suo motu appeared in Court on 5.6.1996 where the award was filed for being made Rule of the Court, I come to the conclusion that the notice shall be deemed to have been served on the appellant CCL at least before 5th June, 1996 because at that time, the appellant had knowledge that the award had been filed and after appearing suo motu in Court had also filed time-petition for filing objection to the award under Section 30 of the Act. Such objection for setting aside the award filed by the appellant subsequently on 4.7.1997 was undisputedly barred by limitation. The Court below, therefore, rightly rejected the appellant's objection as barred by lapse of time.

12. It further appears that the Court below did not interfere with the award and/ or did not find any reason to set it aside on the ground that arbitrator's approach in

interpreting the rates of transportation, as shown in letter dated 5.9.1984, was not only reasonable, but also perfectly correct.

13. I find no reason to interfere with the impugned award as well as the impugned order dated 20.8.1996, passed by the Court below making the said award as Rule of the Court. There is no merit in this Appeal. It is dismissed. No costs.

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