

Union of India and ors. Vs. Kishan Chand

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Court : Delhi

Decided On : Jun-25-1990

Reported in : 1990(2)ARBLR264(Delhi); 42(1990)DLT79

Judge : D.P. Wadhwa, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Sections 115; [Arbitration Act, 1940](#) - Sections 20

Appeal No. : Civil Revision Appeal No. 454 of 1990

Appellant : Union of India and ors.

Respondent : Kishan Chand

Advocate for Pet/Ap. : D.K. Kapur,; V.V. Bagga and; Harish Malhotra, Advs

Judgement :

D.P. Wadhwa, J.

(1) This is a petition under Section 115 of the Code of Civil Procedure. The petitioner seeks revision of the order dated 7th March, 1990 of the Sub-ordinate Judge. I have heard the learned counsel for the parties. I admit the petition and proceed to dispose of the same.

(2) The respondent was awarded a contract for car parking lot at Old Delhi Railway Station for a period of two years commencing from 8th March 1988. His tender was for the sum of Rs. 5,67,008.00 . The area licensed to him for car parking measured 15050 sq. ft. The agreement was to expire on 7th March, 1990. On 13th February, 1990 the respondent filed a petition under Section 20 of the [Arbitration Act, 1940](#) praying that the following disputes be referred to arbitration :

(A)How much loss the petitioner has suffered due to non-providing the proper car parking space in terms of the agreement dated 8.3.88. (b) How much loss the petitioner has suffered on account of the falling down of the Campa Cola Board and the compensation paid by the petitioner to various owners of the vehicles whose vehicles were damaged due to falling down of the Campa Cola Board. (c) The loss suffered by the petitioner due to fixing up of the Campa Cola Board in the middle of the car parking lot. (d) The other damages suffered by the petitioner for allowing the parties to park their private vehicles in the areas specified for the Govt. and the Vip vehicles. (e) Whether the petitioner is entitled to run continued to run the said stand for further period after the expiry of the period of the agreement dated 8th May, 1988 and for how much period. (f) Any other disputes connected with the said agreement dated 8.3.1988.

(3) At the same time the respondent filed an application under Section 41 read with Schedule-11 of the Arbitration Act and Section 151 of the Code of Civil Procedure. In this application he prayed that the petitioner-defendant be restrained from dispossessing him from the aforesaid car parking lot by show of force and except in due course of law and till the award was made rule of the court and a decree in terms thereof was passed.

(4) Since the term of the contract with the respondent was to expire on 7th March, 1990, the parking lot was re-tendered and this time the amount tendered by the successful tenderer was Rs. 11,12,555.00 for a period of two years commencing from 1st March, 1990.

(5) By the impugned order 7th March, 1990 the learned Sub-ordinate Judge directed maintenance of status quo till the petition under Section 20 of the Arbitration Act was decided. The effect of this order was that while the petitioner-

defendant was unable to allot the parking lot to the successful tenderer, the respondent was to sit quietly and to go on occupying the parking lot without any payment, though the period expired. No conditions were imposed on the respondent in case of his losing the petition under Section 20 of the Arbitration Act or the award, if going against him. On the face of it the impugned order would appear to be most unjust. It would appear that what impressed the learned subordinate judge was that the respondent had contended that he was not given the site measuring 15050 sq. ft. as per the terms of contract and that certain area earmarked for parking of cars by VIPs and other government vehicles was being used by private vehicles and further that a huge hoarding of campa cola had been allowed to be fixed in the middle of the parking and thus reducing the car parking site and affecting the profit of the respondent. From the nature of the disputes which the respondent sought to refer, it would also appear that he failed to quantify the damages suffered by him on any of the aforesaid counts. Under the agreement under which the contract was awarded to the respondent he has certainly no right to continue to occupy the parking lot after the expiry of the agreement. No clause of the agreement has been shown to me that in case of breach of any of the terms of the agreement, the respondent could continue to occupy the parking lot even after the expiry of the term of the agreement, which, as noted above, was 7th March, 1990. This is a case where the learned sub-ordinate judge has acted in the exercise of his jurisdiction not only illegally but with material irregularity.

(6) I would, therefore, set aside the impugned order. The petitioner is allowed with costs.