

Attar Singh and Bros. Vs. Delhi Development Authority

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Court : Delhi

Decided On : Feb-01-1996

Reported in : 1996IAD(Delhi)747; 1996(37)DRJ484

Judge : Manmohan Sarin, J.

Acts : [Arbitration Act, 1940](#) - Sections 20

Appeal No. : Suit No. 1683 of 1993

Appellant : Attar Singh and Bros.

Respondent : Delhi Development Authority

Advocate for Pet/Ap. : B.K. Divan and; Ashish Kumar, Advs

Judgement :

Manmohan Sarin, J.

(1) This is a petition filed by the petitioner under Section 20 of the Arbitration Act praying that this Court be pleased to appoint an independent arbitrator to adjudicate upon the disputes or direct defendant No.2 i.e. appointing authority to appoint an arbitrator to adjudicate in terms of the arbitration agreement..

(2) The facts giving rise to the present petition are somewhat peculiar. Mr. S.C. Kaushal, Superintending Engineer arbitration had been appointed the arbitrator

vide communication bearing No.EN12(18)/92/Arbn/9136-40 dated 25-6-1992. The arbitrator entered upon reference and commenced the proceedings.

(3) It appears that during the hearing on 11-5-1993, petitioner claimant expressed his unwillingness to proceed with the matter before the arbitrator. The arbitrator thereupon closed the case and sent the case file NO.ARB/SCK 1 to the Engineer Member vide his communication bearing No.F.(Retnd.)/SE-Abn.II/DDA/185 dated 20th May, 1993. It is in these circumstances, that the petitioners have filed the present petition under Section 20 of the Act for appointment of an arbitrator staling that the arbitrator being unable to act the respondent should appoint another arbitrator.

(4) The Respondent Dda has filed a reply to the petition staling that based on the claimant submission that he would not like to proceed any further in the matter the arbitrator was fully justified in closing the case of the petitioner. It is contended that this is not a case where the arbitrator was 'unable to proceed'.

(5) The petitioners' grievance appears to be that the arbitrator failed to give directions to the respondent to produce relevant diary, registers and was acting in a biased manner.

(6) This is not a case which falls within the ambit of Section 20 of the Arbitration Act 1940. Reference may be usefully made to Mangal Prasad Vs . Lachman Prasad : AIR1964 All108 G.D. Arora v. Sim Inderjit Arora 1996 (1) Ad Delhi 465.

(7) Learned counsel for the petitioner after some arguments accepts the position that this would not be a case of the arbitrator being unable to act and wishes to withdraw the petition with liberty to file a petition seeking removal of the arbitrator and/or revocation of the authority of the arbitrator. Learned counsel for the respondent has Bo objection to this.

(8) The petition is dismissed as withdrawn.