

NHAI Vs. Hukam Singh & ors.

IA-01/2021 in Arb-78-2019
CNR No. HRPL01003562-2019

Argued by: Ms. Kiran Sharma, Advocate for petitioner.
Sh. Hemraj Chauhan, Advocate for respondents.

ORDER:

1. This order shall dispose of an application filed by the petitioner under order 6 rule 14 & 15 read with section 151 CPC for rejection of the written statement/reply filed by the respondents.

2. I have heard the learned counsel for the parties and gone through the record thoroughly.

3. The petitioner has filed petition under section 34 of Arbitration and Conciliation Act, 1996 for setting aside the award dated 10.04.2019 passed by the Arbitrator-Addl. Deputy Commissioner, Palwal. The respondents have filed written statement to the objection petition. Learned counsel for the applicant/petitioner has argued that the written statement filed by the respondents should be rejected because it is not supported by an affidavit. She has further argued that order 6 rule 1 of CPC provides that pleading include both plaint and written statement. She has also argued that rules 14 & 15 of order 6 clearly provides that pleadings should be signed and verified by the parties and the

person verifying the pleadings is also required to furnish an affidavit in support of his pleadings. In brief, she has argued that since the respondents have not filed the affidavit in support of their pleadings, their written statement should be rejected. She has relied upon the judgments of Hon'ble Supreme Court in case of ***R.P.Moidutty Versus P.T.Kunju Mohammad and another 2000(1) SCC 481 and F.A.Sapa Versus Singora 1991(3)SCC 375.***

4. On the other hand, learned counsel for the respondents has argued that the contents of written statement are duly verified by the respondents and therefore, written statement should not be rejected merely on the ground that the affidavit is not filed in support of the written statement.

5. I have given thoughtful consideration to the rival submissions raised by learned counsel for the parties.

6. The main petition has been filed by the petitioner for setting aside the award of the Arbitrator under section 34 of Arbitration and Conciliation Act. The award of an arbitrator can be set aside by the court only on the grounds mentioned in section 34 of Arbitration and Conciliation Act, 1996. The petition has to be decided mainly on the basis of the record produced by the parties before the Arbitrator. The petitioner has mentioned the grounds on

which it has been claimed that the award is liable to be set aside. There is no specific provision in the Arbitration and Conciliation Act, 1996 that the respondents will file written statement or reply to the application in accordance with the provisions of C.P.C. The respondents have filed written to the petition and the contents of their written statement have been duly verified. The purpose of taking affidavit along with the pleadings is that anybody who tries to commit a false claim/false defence would be made liable to the prosecution for perjury. The contents of the written statement filed by the respondents have been duly verified and if it is proved that they have taken a false defence, they may be made liable to prosecution for perjury. In the considered opinion of this court, it will not be appropriate if the written statement filed by the respondents is rejected merely on the ground that they have not filed affidavit in support of their written statement.

7. Keeping in view all facts and circumstances of the case, application is dismissed.

(Sushil Kumar Garg)
Addl. District Judge,
Palwal/02.03.2022
UID No. HR-0077

Swati/Stenographer Gr-II

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Reply to the application of petitioner under Order 6 Rules
14 & 15 read with Section 151 CPC filed by counsel for respondents.
Arguments heard. Vide my separate order of even date, application filed
by the petitioner under order 6 rule 14 & 15 read with Section 151 CPC
is dismissed. Now, to come upon 13.05.2022 for arguments.

(Sushil Kumar Garg)
Addl. District Judge,
Palwal. 02.03.2022
UID No. HR-0077

Swati/Stenographer Gr-II