

Arb. No. 10 of 2020.

Union of India vs. Baljit Singh

Present: Shri Kamaljit Bansal Advocate for objector/petitioner.
Shri Nitin Mehta Advocate for respondent no.1 to 3.
Shri Puneet Khanna G.P. for State/respondent no.4
(Respondent no.5 is the Arbitrator).

This order of mine shall dispose of an application U/O 6 Rule 17 read with section 151 CPC moved by learned counsel for Objector/petitioner No.1 Union of India and applicant National Highways Authority of India (NHAI) seeking therein that NHAI be made an objector and further certain amendments were requested to be made in the objection petition U/S 34 of the Arbitration and Conciliation Act.

2. In brief, it has been averred in the application that objection petition U/S 34 of the Arbitration and Conciliation Act was filed by Union of India. It is further submitted that land was acquired for making a road and that compensation for the acquisition of land was the subject matter of the award regarding which the present objection petition has been filed and that the road in question had been entrusted to NHAI vide notification dated 09.03.2020 and that XEN Central Works Division transferred all cases to NHAI vide letter dated 14.08.2020. It is further averred that the present objection petition was filed by Union of India and that due to inadvertence, name of NHAI got omitted from the list of the objectors. It is further averred that this mistake was bona-fide and needs to be corrected and that thus NHAI be impleaded as Objector no.2 in the present petition.

3. Furthermore apart from the amendment in the array of the parties a number of other amendments such as amendments in the heading

of objection petition, para no.1, 4,6,7-(b), 7(c), 7(d) of the main objection petition and para d, e, g and m of the grounds to challenge the award and addition of para d in the prayer column have been sought

4. This application has been contested by respondents no.1 to 3 and respondent no.1 has submitted reply averring therein that in the garb of the present application NHAI wants to file objection petition U/S 34 of the Arbitration Act, which infact has not been filed by them. It is further averred that NHAI has not filed objection petition U/S 34 of the Arbitration Act till date before any competent court for reasons best known to them and thus NHAI has admitted the award passed by the Arbitrator on 17.12.2019, which has become final qua NHAI and that even the period of limitation for filing objections has elapsed. With these averments it was prayed that NHAI cannot be allowed to be added as an objector in the present objection petition.

5. I have heard the learned counsel for applicant and contesting respondents and have gone through the file very carefully with their able assistance.

6. In the case in hand, NHAI by way of amendment U/S 6 Rule 17 CPC wants to be added as an Objector in addition to Union of India and further both Union of India and NHAI want to amend their objection petition by certain additions and modifications in the objection petition filed U/s 34 of the Arbitration and Conciliation Act.

7. Firstly, I would deal with the part of the application, whereby NHAI by way of amendment U/S 6 Rule 17 CPC wants to be added as an Objector in addition to Union of India. The perusal of the award dated

17.12.2019, which is the basis of the present objection petition shows that NHAI was impleaded by the contesting respondents (in the present objection petition) as respondent no.4 and further Union of India and NHAI were both represented by the same counsel i.e. Shri Rajinder Sharma. The present objection petition was filed by the same counsel i.e. Shri Rajinder Parshad Sharma only on behalf of Union of India. Now the present application seeking amendment to the extent of impleadment of NHAI as an objector in addition to Union of India has been filed by Shri Kamaljit Bansal Advocate appearing on behalf of both Union of India and NHAI. This clearly shows that on both forums i.e. before the Arbitrator and the present Court counsel for both the Union of India and NHAI are the same. Thus it is clear that NHAI was inadvertently left out from the array of parties as an objector by the counsel for the objector. The Hon'ble Supreme Court of India in **Varun Pahwa versus Renu Chaudhary (SC)**: Law Finder Doc. Id No.1382897 held that:-

“9. The memo of parties is thus clearly inadvertent mistake on the part of the counsel who drafted the plaint. Such inadvertent mistake cannot be refused to be corrected when the mistake is apparent from the reading of the plaint. The Rules of Procedure are handmaid of justice and cannot defeat the substantive rights of the parties. It is well settled that amendment in the pleadings cannot be refused merely because of some mistake, negligence, inadvertence or even infraction of the Rules of Procedure. The Court always given leave to amend the pleadings even if a party is negligent or careless as the power to grant amendment of the pleadings is intended to serve the ends of justice and is not governed by

any such narrow or technical limitation”.

8. Accordingly, I am of the considered opinion that the inadvertent mistake which is apparent from the circumstances as discussed above requires to be corrected and accordingly the part of the application U/O 6 Rule 17 CPC seeking that NHAI be added as an Objector in addition to Union of India stands allowed.

9. Now coming to the second part of the application as per which both objectors want to amend their objection petition by way of certain additions and modifications in the objection petition filed U/s 34 of the Arbitration and Conciliation Act. It has nowhere been pleaded that the facts or averments which are now sought to be added or modified were earlier not in the notice of the objectors. Further it is not the case of the objector that they could not despite due diligence mention the facts or proposed modifications at the time of filing the objection petition, which they now want to make a part of their petition. Accordingly, the part of the application seeking amendment and modification in the body of the objection petition is hereby dismissed.

10. Amended head note be now filed on 05.09.2022. Further reply to the main objection petition be now filed by appearing respondents. Record of the Arbitrator be also requisitioned for the date fixed.

Dated: 09.08.2022.
Mamta Threja, JW.

(Gurpartap Singh),
ADJ, Sangrur.
(UID-PB0206)

