

UOI etc. Vs. Gurvinder Singh etc.
Arb. No.325 of 2021

1.3.2023:

Present: Sh.Raghujeet Singh Madan , Advocate for the petitioners,
 Sh.Rakesh Gupta, Advocate for respondent No.1,
 Respondents No.3 and 4 exparte.

Arguments heard on the application filed by the petitioners for placing on record additional evidence in form of award dated 8.2.2021 of village Sanghol, on the ground that the Arbitrator has taken a completely contradictory stand in the present award dated 18.1.2021 and in the aforesaid award dated 8.2.2021. It is averred that said document is very relevant and necessary for decision of the case and prayed for allowing the application.

The application has been opposed by learned respondent No.1 by advancing arguments, but no reply was filed to the application. It is argued that the petitioner has failed to mention any provision of law, under which the application has been filed. There is no provision for filing the application for additional evidence in Arbitral & Reconciliation Act. It is prayed that the application is liable to be dismissed.

The petitioners have sought to produce and prove on record copy of the aforesaid award dated 8.2.2021 as additional evidence. However, the Hon'ble Supreme Court of India has held in the case titled as **Navodaya Mass Entertainment Ltd. Vs J.M.Combines, 2015(5) SCC 698**, in para No.6 of judgment, as under:

*“6. In our opinion, the scope of interference of the Court is very limited. Court would not be justified in reappraising the material on record and substituting its own view in place of the Arbitrators view. Where there is an error apparent on the face of the record or the Arbitrator has not followed the statutory legal position, then and then only it would be justified in interfering with the award published by the Arbitrator. Once the Arbitrator has applied his mind to the matter before him, the Court cannot reappraise the matter as if it were an appeal and even if two views are possible, the view taken by the Arbitrator would prevail. (See: **Bharat Coking Coai Ltd. v. L.K. Ahuja, 2004(3) R.C.R.(Civil) 126: (2004) 5 SCC 109; Ravindra &***

Associates v. Union of India, (2010)1 SCC 80; Madnani Construction Corporation Private Limited v. Union of India & Ors., (2010) 1 SCC 549; Associated Construction v. Pawanhans Helicopters Limited, 2009(1) R.C.R.(Civil) 34 : (2008) 16 SCC 128; and Satna Stone & Lime Company Ltd. v. Union of India & Anr., 2008(3) R.C.R. (Civil) 226 : (2008) 14 SCC 785.)

From the above referred judgments, it is clear that the scope of Section 34(2) of the Act is limited and the Court would not be justified in re-appreciating the material on record. Now the petitioners want to produce on record aforesaid award dated 8.2.2021. However, the petitioners have failed to refer any provision under which the said documents can be produced in the objection petition u/s 34 of the Act. Therefore, present application is moved only for delaying the proceedings of the present case and accordingly, the same stands dismissed.

Arguments also heard on the application u/s 36(2) of the Arbitration & Conciliation Act, 1996, read with Rule 3(i)(b) of National Highways (Manner of depositing the amount by the Central Government; Making Requisite Funds available to the competent authority for acquisition of land) Rules, 2019, to stay the operation of the impugned award dated 18.1.2021, on the grounds that the same has been passed illegally and liable to be set aside, being against public policy of India.

Respondent No.1 filed reply to the said application taking the preliminary objections regarding maintainability of the application and being filed to defeat the rights of respondent No.1. Rest of the averments made in the application have been denied and prayer for dismissal of the same is made.

The petitioners have sought to stay the operation of the impugned award. However, it is settled law that filing of application u/s 34 of the Arbitration & Conciliation Act, seeking setting aside of the award, would not render the award unenforceable. Hence, the present application is also hereby dismissed being devoid of merits.

Arguments heard. Vide my separate judgment of even date, passed in the petition bearing Arb. No.342-2021, titled as “Gurvinder Singh Vs. Union of India & ors., the present petition, as well as, said petition, both stand dismissed, as per the details given therein. Memo of costs be prepared. File be consigned to the record room, after due compliance.

**Pronounced.
1.3.2023.**

*Typed by Brijinder Batish.
Stenographer-II.*

**(Muneesh Arora)
(UID PB00135)
Additional District Judge,
Patiala.**