



Jai Inder Pal Singh Vs. *Jasvinder Singh Narula*

Arb. Case No.40 of 2009

08.01.2024 Present: Mr. J.S. Bhogal, Senior Advocate with Mr.T.S. Bhogal, Advocate, for the petitioner.
Mr. Neeraj Gupta, Senior Advocate with Mr.Pranjal Munjal, Advocate, for the respondent.

OMP No.15 of 2024

The present application has been filed under Section 151 of the Code of Civil Procedure (CPC) on behalf of the applicant-petitioner to lead evidence with regard to the alleged personal incapacity of the learned Arbitrator in making the award dated 16.02.2009. It has been submitted that the evidence with respect to the mental health of the learned Arbitrator is essential for deciding the real question in controversy between the parties.

Reply to the application has been filed, in which, it has been mentioned that considering the entire factual background, the non-applicant/respondent does not object to the prayer made in the application.

I have heard learned Senior Counsel for the parties and also gone through the record of the case carefully.

In ***Alpine Housing Development Corporation Pvt. Ltd.*** Versus ***Ashok S. Dhariwal and other, 2023 SCC OnLine SC 55***, the Hon'ble Supreme Court has laid down that for establishing that the arbitral award is in conflict with



Public Policy of India, in a given case, the evidence may have to be led and by leading evidence, the person who is challenging the award on that ground can establish and prove that the arbitral award is in conflict with Public Policy of India. Relevant portion of the aforesaid judgment reads as under:-

“25. Now so far as the submission on behalf of the appellant that the requirement of “furnishing proof” as per pre-amendment of section 34(2)(a) of the Arbitration Act shall not be applicable to the application for setting aside the award on the grounds set out in section 34(2)(b) and the submission that in the execution proceedings the subsequent development of refusing to grant permission for amalgamation of the plots can be considered and it will be open for the applicants to point out in the execution proceedings that the award is not capable of being executed is concerned, at the outset, it is required to be noted that even for establishing that the arbitral award is in conflict with Public Policy of India, in a given case, the evidence may have to be led and by leading evidence, the person who is challenging the award on that ground can establish and prove that the arbitral award is in conflict with Public Policy of India and/or the subject matter of dispute is not capable of settlement by arbitration under the law for the time being in force.....”

Therefore, having regard to the averments made in the application and in view of the no objection on behalf of the non-applicant/respondent in allowing the application and also keeping in view the law laid down by the Hon’ble Supreme in the aforesaid judgment in ***Alpine Housing Development Corporation Pvt. Ltd’s*** case, the instant application is allowed and the applicant/petitioner is granted opportunity to lead evidence with respect to the alleged



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personal incapacity of the learned Arbitrator in making the award dated 16.02.2009. Needless to add that the respondent may also lead evidence on the issue in question, if he so desires.

The application stands disposed of.

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List the case before the Additional Registrar (Judicial) on **10.01.2024**, for fixing the date of the evidence.

Keeping in view the mandate of the Hon'ble Supreme Court dated 24.07.2023, the Registrar (Judicial) is directed to complete the evidence of the parties in the **month of March, 2024.**

January 08, 2024
(VH)

(Sushil Kukreja)
Judge