

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Misc. Appeal No. 13/2023

1. Indira Gandhi Canal Project 10 Division, Indira Gandhi Canal Project 10 Division, Taranagar, Via Executive Engineer, Taranagar, Indira Gandhi Canal Project.
2. District Collector, Churu Through Government Of Rajasthan.

----Appellants

Versus

M/s Shiv Shakti Contractor, 7 Adarsh Colony, Near Ambedkar Circle, Bikaner Through Partner Mahavir Prasad Mudda S/o Jagannath Mudda, R/o Bikaner.

----Respondent

For Appellant(s)	:	Mr. Pankaj Sharma, AAG assisted by Mr. Rishi Soni
For Respondent(s)	:	Mr. A.R. Godara

**HON'BLE MR. JUSTICE ARUN BHANSALI
HON'BLE DR. JUSTICE NUPUR BHATI**

Order

25/05/2023

1. The application (I.A.No.01/2023) for early listing of the appeal is allowed.
2. The matter is taken up for admission.
3. Heard learned counsel for the parties.
4. Admit. Issue notice, as sole respondent is duly represented by learned counsel thus, notice need not be issued.
5. Heard on the stay application.
6. It is submitted by learned counsel for the appellants that the award passed by the Arbitrator under relief clause (c), (f) and interest on the said amount, is ex-facie against the terms of the

contract. Further submissions have been made that specific plea was raised under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act of 1996'), before the Commercial Court, which though noticed the contentions, however, has failed to record any reason worth the name for rejecting the said contention and therefore, the award impugned to the said extent along with the interest awarded on the said amounts, deserve to be stayed.

7. Learned counsel for the respondents, vehemently opposed the submissions advanced by the appellants' counsel. It was submitted that looking to the scope of Section 34 of the Act, the Commercial Court was justified in rejecting the same in the manner the same has been done and that as the award passed is in the nature of a money decree, interim order may not be granted.

8. Having considered the submissions made by the learned counsel for the parties and having perused the judgment passed by the Commercial Court, it is apparent, that no reason worth the name has been indicated for not accepting the contentions raised by the appellants. The judgments relied on by the Commercial Court dealing with the scope of Section 34 of the Act of 1996, nowhere prescribes that order in a wholly cursory and slipshod manner can be passed while dealing with the petitions under Section 34 of the Act of 1996. Further, the contentions raised by the learned counsel for the appellants to the extent of relief clause (c), (f) and interest awarded on the said amounts, require consideration.

9. In the circumstances of the case, it is ordered that in case, the appellants deposit a sum of Rs.28,64,289/- along with the interest as awarded by the Arbitrator in the award dated 10.08.2016 within a period of one month, the execution of rest of the award, shall remain stayed.

10. Stay application stands disposed of.

11. Call for the record from the Commercial Court and list the appeal for hearing as soon as the record is received.

(DR. NUPUR BHATI),J

(ARUN BHANSALI),J

4-/Devesh/-