

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5313 Of 2019
(@ SPECIAL LEAVE PETITION (C) NO. 13125 OF 2013)

M/S.MAVERICK KNITS P.LTD.

...APPELLANT(S)

VERSUS

M/S. MVS ENGINEERING
LTD.

...RESPONDENT(S)

O R D E R

Leave granted.

2. This appeal arises out of the judgment and order dated 06.02.2013 passed by the High Court of Delhi at New Delhi in F.A.0 (OS) No. 81 of 2013 in and by which the High Court declined to interfere with the order passed by the learned Single Judge under Section 34 of the Arbitration & Conciliation Act, 1996 and thereby affirming the award passed by the Arbitrator.

3. The dispute between the parties arose out of an order placed by the appellant with the respondent on 26.10.2005 for supply of dyed cotton yarn. The dispute arose between the parties and the matter was referred to the Arbitrator appointed by the respondent invoking the arbitration clause contained in the invoice. The appellant did not participate in the arbitration proceedings; but only sent a written reply raising objections to the jurisdiction of the Arbitrator. The Arbitrator passed the award on 02.12.2006 for a sum of Rs.23,15,159/- along with pendente lite and future interest at

the rate of 18% per annum from the date of amount became due.

4. The appellant challenged the award on the ground that there was a challenge raised by the appellant to the jurisdiction of the Arbitrator and that respondent cannot unilaterally appoint an Arbitrator in the absence of arbitration clause. The appeal filed by the appellant challenging the award under Section 34 of the Arbitration & Conciliation Act, 1996 was dismissed by the learned Single Judge on 29.11.2012. The learned Single Judge declined to interfere with the award and also the rate of interest awarded at 18% per annum. The appeal before the High Court under Section 37 of the Arbitration & Conciliation Act, 1996, the Division Bench was dismissed vide the impugned order.

5. We have heard learned counsel appearing on behalf of the appellant as well as learned counsel appearing on behalf of the respondent.

6. Considering the findings of the Court, we do not find any arbitrariness or unreasonableness with the award passed by the Arbitrator. Hence, we do not find any good ground warranting interference with the impugned order.

7. Learned counsel for the appellant submits that the interest at the rate of 18% per annum is on the higher side and submitted that considering the long lapse of time, the interest payable be reduced. Learned counsel appearing on behalf of the respondent, on instructions, fairly conceded that since the award was passed in the year 2006, the interest may be reduced to a reasonable rate of interest. Section 31(7)(b) provides

that "a sum directed to be paid by an arbitral award shall, unless the award otherwise directs, carry interest at the rate of 18% per annum from the date of the award to the date of payment". In *Pure Helium India (P) Ltd. v. Oil and Natural Gas Commission (2003) 8 SCC 593*, the Supreme Court upheld the arbitral award for payment of money with interest. However, having regard to the long lapse of time and in exercise of its jurisdiction under Article 142 of the Constitution of India and in order to do complete justice between the parties, the Supreme Court directed that interest be reduced from 18% to 6% per annum.

8. In the present case, since the award is of the year 2006 and considering the facts and circumstances of the case, in exercise of our jurisdiction under Article 142 of the Constitution of India, we deem it appropriate to reduce the rate of interest, pendente lite and future interest from 18% to 6% per annum payable by the appellant.

9. The appeal is partly allowed in above terms.

.....J.
[R. BANUMATHI]

NEW DELHI
9TH JULY, 2019

.....J.
[A.S. BOPANNA]

ITEM NO.19

COURT NO.7

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 13125/2013
(Arising out of impugned final judgment and order dated 06-02-2013
in FAO No. 81/2013 passed by the High Court Of Delhi At New Delhi)

M/S.MAVERICK KNITS P.LTD.

Petitioner(s)

VERSUS

M/S. MVS ENGINEERING LTD.

Respondent(s)

Date : 09-07-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI

HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Arun K. Sinha, AOR
Mr. Sinha Shrey Nikhilesh, Adv.
Mr. Sumit Sinha, Adv.
Mr. Swastik Verma, Adv.
Mr. Nayan Dubey, Adv.

For Respondent(s) Ms. Gitanjali N. Sharma, Adv.
Mr. Sakesh Kumar, Adv.
Mr. Rohit K. Singh, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is partly allowed in terms of the signed
order.

Pending application, if any, shall also stand
disposed of.

(MADHU BALA)
COURT MASTER (SH)

(PARVEEN KUMARI PASRICHA)
BRANCH OFFICER

(Signed order is placed on the file)