

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 7864 OF 1996

ROHTAK & HISSAR DISTRICT ELECT. CO.LTD. Appellant (s)

VERSUS

THE U.P. POWER CORPORATION LTD. Respondent(s)

(office report for direction)

Date: 19/08/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE MADAN B. LOKUR

For Appellant(s) Ms. Sandhya Goswami, Adv.

For Respondent(s) Mr. Pradeep Misra, Adv.

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

The case like this speaks volumes about the failure of the arbitration process.

2. The disputes between the parties arose in August, 1975. Those disputes were to be resolved through the process of arbitration. More than 38 years have passed but these disputes have not been resolved. The reasons are many which we need not highlight here. Suffice it to say that by an order dated 16.10.2012 of this Court, Mr. Justice Umeshwar Pandey, a former Judge of the Allahabad High Court was appointed as a sole Arbitrator to arbitrate on the disputes between the parties. The Arbitrator was requested to publish the award within four months from the date on which he entered upon reference. Four months have passed but because of non-cooperation of the claimant, nothing further could take place before the Arbitrator.

3. In his letter dated 7.7.2013, the Arbitrator has requested for further time for making the award. However, he highlighted that Mr. J. Nagar, counsel for the claimant has neither appeared on any date before him nor placed on record the copies of the claim and counter-claim and the relevant documents.

4. We deprecate the attitude of the counsel for the claimant in treating the proceedings before the Arbitrator as he has done. However, Ms. Sandhya Goswami, learned counsel for the claimant-appellant assures us that the counsel for the claimant shall appear on each date before the Arbitrator which may be fixed by him and all necessary papers including claim, counter-affidavit, documents etc. shall be filed, if not filed so far or not available with the Arbitrator, within one week from today.

5. Mr. Pradeep Misra, learned counsel for the non-claimant (respondent) submits that the respondent shall fully cooperate with the Arbitrator and appear on each date that may be fixed by him.

6. Having regard to the above assurances by the learned counsel for the parties, we request the learned Arbitrator to publish the award within two months from today. The parties through their counsel shall appear before the Arbitrator on 26.8.2013.

7. We make it clear that if the claimant does not cooperate

or does not produce the necessary documents/papers or does not appear on any date that may be fixed by the Arbitrator, his claim shall stand dismissed without further reference to this Court. On the other hand, if the respondent does not cooperate with the Arbitrator, it will be open to the Arbitrator to pass appropriate order against the respondent. If necessary, the Arbitrator may fix day to day hearing to ensure that the award is published within two months from today.

8. Registry shall communicate copy of this order to the Arbitrator immediately.

9. Office Report dated 1.8.2013 is ordered accordingly.

|(Pardeep Kumar)
|Court Master

|(Renu Diwan)
|Court Master

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