Parasramka Commercial Company

Vs

Union of India

Civil Appeal No. 2532/66

(CJI M. Hidayatullah, A.N. Ray JJ)

29.08.1969

JUDGMENT

HIDAYATULLAH, C.J. -

1. This is an appeal against a judgment and order of the Circuit Bench of the Punjab High Court at Delhi (Single Judge) in a matter arising under the Arbitration Act. By an agreement, dated 28, 1948 the appellant company entered into a contract with the Chief Director of Purchase (Food) acting on behalf of the Government of India. It is not necessary to give the details of this contract, because the matter was referred to arbitration under an arbitration clause included in the agreement between the parties. The award was made and signed on April 26, 1950. The Arbitrator awarded Rs. 17,080-2-9 with costs in favour of the company. The Arbitrator, however, did not send a notice as such of the making and signing of the award but sent a copy of the award signed by him to the company. The company acknowledged the receipt of this copy by two letters which are dated May 5 and May 16, 1950. It appears that in the original which was retained in the office of the Arbitrator, in was stated that there was a covering letter giving notice of the making of the award, but the company denied that any such letter had been sent. However, nothing much turns on it as we shall show presently.

2. After the copy of the award was received by the company, it filed an application under Section 14(1) of the Arbitration Act in the Court of the Subordinate Judge, Delhi on March 30, 1951 for making the award rule of the court. It may be mentioned that on July 3, 1951, the Arbitrator sent the original award to the court also. Before the Subordinate Judge objection was taken by the Union of India that the application of the company to the Court was delayed since such an application Section 14(1) of the Arbitration Act under Article 178 of the Indian Limitation Act had to be made within 90 days of the receipt of the notice intimating that the award had been made and signed. This objection prevailed with the Subordinate Judge who rejected the application. A revision application was unsuccessfully made before the High Court and it is the order on the revision application which is the subject of appeal before us.

3. Originally the revision application went before a learned Single Judge of the High Court. He referred the matter to a Division Bench which in its turn referred the case for decision to a full Bench. The full Bench gave its opinion on November 17, 1961. Although the full Bench discussed the matter it did not reach any conclusion in the case, because it felt that whether the application under Section 14(1) of the Arbitration Act had been made within 90 days or not, was a question of fact which has to be decided by the learned Single Judge, and as the learned Single Judge had not gone into that question, the matter had to go back to him. When the case came before the learned Single Judge, he took some evidence and examined the question in detail. He upheld the decision of the Subordinate Judge and dismissed the revision application.

4. It has been argued before us by Mr. B. P. Maheshwari that the judgment under appeal is erroneous, because Section 14(1) of the Arbitration Act requires that there should be a notice in writing and that notice had to be something besides the award of which a copy had been sent. He has cited a number of rulings in support of his contention that a notice in writing is incumbent before limitation under Article 178 of the limitation Act which applies to Articles 14(1) petitions can start. In chief, he relies upon Ratnawa v. Gurushiddappa Gurushantappa Magavi and Others (AIR 1962 Mys 135); Puppalla Ramulu v. Magidi Appallaswami and Others (AIR 1957 AP 11); Jagdish v. Sundar (ILR 27 Pat 86); Ganga Ram v. Radha Krishnan (ILR 1955 Punj 402); Badarala Ramakrishnamma and Others v. Vattikonda Lakshmibayamma and Others. (ILR 1958 AP 166).

5. It is not necessary to go into the reasoning which made the learned Judges in these cases to lay down that there must be a proper notice in writing of the making of the award. That follows in fact from the words of Section 14(1) of the Arbitration Act. That section says that when the arbitrators or umpire have given their award, they shall sign it and shall give notice in writing to the parties of the making and signing thereof and of the amount of fees and charges payable in respect of the arbitration and award. What will be considered a sufficient notice in writing of the making and signing of the award is a question of fact. In the cited cases emphasis sometimes has been laid upon the latter part of the sub-section which speaks of the arbitration and award. Sometimes emphasis has been placed upon the opening words namely that there should be a notice in writing. Reading the word 'notice' as we generally do, it denotes merely an intimation to the party concerned of a particular fact. It seems to us that we cannot limit the words 'notice in writing' to only a letter. Notice may take several forms. It must be sufficient in writing and must intimate quite clearly that the award has been made and signed. In the present case, a copy of the award signed by the arbitrator was sent to the company. It appears to us that the company had sufficient notice that the award had been made and signed. In fact the two letters of May 5 and May 16 to which we have referred quite clearly show that the company knew full well that the arbitrator had given the award, made it and signed it. In these circumstances to insist upon a letter which perhaps was also sent (though there is some doubt about it) is to refine the law beyond the legitimate requirements. The only omission was that there was no notice of the amount of the fees and charges payable in respect of arbitration and award. But that was not an essential part of the notice for the purpose of limitation. To emphasis the latter part as being the essential part of the notice is to make the first part depend upon the determination of the fees and charges and their inclusion in the notice. A written notice clearly intimating the parties concerned that the award had been made signed, in our opinion certainly starts limitation.

6. In this view of the matter we are in agreement with the decision of the learned Single Judge who has endorsed the opinion of the Subordinate Judge that limitation began to run from the receipt of the copy of the award which was signed by the Arbitrator and which gave dude notice to the party concerned that the award had been made and signed. That is how the party itself understood when it acknowledged the copy sent to it. Therefore, the application must be treated as being out of time and the decision of the High Court to so treat it was correct in all the circumstances of the case.

7. We, therefore, do not see any reason to interfere in this appeal and it is dismissed. But we make it clear that the other part of the case, namely what is to happen to the award sent by the Arbitrator himself to the court has yet to be determined and what we say here will not affect the determination of that question. Obviously enough that matter arises under the second sub-section of Section 14 and will have to be considered quite apart from the application made by the company to have the award made into rule of Court.

8. It was represented to us by Dr. Syed Mohammed that objections had been taken to the validity of the award and they remain still for decision. Those of course must fall to the ground with the application which we have found to be out of time. As to whether similar objections can be raised in answer to the award filed at the instance of the arbitrator is a question which we cannot go into in the present appeal and no expression of opinion must be attributed to us on that point. In the circumstances of the case we leave the parties to bear their own costs.

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