

Ramdas Oil Mills

Vs

Union of India (Military Deptt.)

Civil Appeal 1871 of 1968

(CJI A.N. Ray, M.H. Beg, Jaswant Singh JJ)

07.12.1976

JUDGMENT

RAY, C.J. –

1. This appeal is by certificate from the judgment dated November 27, 1967, of the Patna High Court.
2. The appeal arises out of an award dated March 1, 1962 passed by the District Judge of Singhbhum at Chaibassa as an arbitrator under Section 19 of the Defence of India Act, 1939 (hereinafter referred to as the Act).
3. The property of the appellant was requisitioned. He claimed compensation. The matter was referred to the arbitrator.
4. Before the arbitrator the appellant claimed compensation under several heads amounting to Rs. 1,07,130. The two important claims were : first, compensation for damages to building was assessed by the appellant at Rs. 34,000 and second, interest was claimed for Rs. 15,216.
5. The other heads under which the appellant claimed compensation were for galvanised iron water pipes at Rs. 20,000 and compensation for removal of entire electric wirings and fittings at Rs. 20,000.
6. The arbitrator awarded Rs. 10,000 as compensation for damages to building. He also gave interest slightly in excess of the amount claimed. He also awarded a sum of Rs. 8,000 for galvanised iron water pipes.
7. An appeal was preferred to the High Court by the Government. An appeal lies to the High Court under Section 19(1)(f) of the Act.
8. It has been held by this court in Collector of Varanasi v. Gauri Shankar Misra [(1968) 1 SCR 372 : AIR 1968 SC 348] that the High Court in hearing an appeal under Section 19 of the Act acts as an appellate Court and not as a court hearing an application for setting aside an award.
9. The High Court reduced the award of the arbitrator from Rs. 10,000 to Rs. 6545 under the head 'damages to building'. The High Court also reduced the claim for galvanised iron water pipes from Rs. 8000 allowed by the arbitrator to Rs. 2556.62. The High Court disallowed the interest.
10. Counsel for the appellant pressed really these three claims. We are unable to accept the

submission of the appellant. The High Court rightly disallowed the major part of the claim of compensation for 'damages to building' and also for 'G.I. water pipes'. The principal reason given by the High Court is that account books were maintained in respect of construction and repairs to the building by the appellant but no such accounts were produced. It is also said by the High Court that the appellant did not produce account books which would have shown the length of the pipes used for running the mills. It is well settled that if a person does not produce account books which are in his possession an adverse inference can be drawn for non-production thereof [see Seth Maganmal (since deceased) v. Darbarilal Chowdhry reported in 47 CLJ 222, 230 [AIR 1928 PC 39] where the Judicial Committee observed to that effect].

11. A claim for interest is not a matter of right. It is so well settled that interest by way of damages cannot be awarded. The High Court rightly disallowed interest which had been awarded by the arbitrator.

12. For these reasons the appeal fails and is dismissed. There will be no order as to costs.

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