

State of Jammu and Kashmir

Vs

Haji Ghulam Rasool Rather and Sons

Civil Appeal No. 1064 of 1987

(L. M. Sharma, J. S. Verma JJ)

07.08.1989

JUDGMENT

SHARMA, J. -

1. This appeal by special leave is directed against the decision of the High Court of Jammu and Kashmir in Letters Patent Appeal No. 9 of 1986.
2. An award by the sole arbitrator deciding certain against dispute between the parties was made and filed in the High Court. Objection was filed on behalf of the appellant raising several questions, which were overruled, and the award was made rule of the court by the judgment of a learned Single Judge. The judgment was confirmed by a Division Bench in the Letters Patent Appeal.
3. Mr. Bhattacharya, the learned counsel for the appellant, contended that there was no material available to the arbitrator on the basis of which the award could have been legally made. The point was rightly rejected by the learned Single Judge as well as by the Division Bench.
4. The other question agitated on behalf of the appellant relates to grant of interest in favour of the respondent. The award Annexure A which is included at pages 18 and 19 of the paper book indicates that a sum of Rs 70,981 was allowed by way of interest as against a larger amount claimed. This part of the award has to be deleted in view of the decision in Executive Engineer (Irrigation), Balimela v. Abhaduta Jena ((1988) 1 SCC 418) holding that in cases where the reference to arbitration was made prior to the commencement of the Interest Act, 1978, that is, August 19, 1981, interest was not payable pendent lite and for the earlier period. The reference in the present case had been made before the coming in force of the Interest Act. The award is, in the circumstances, modified to that extent. The appeal is accordingly allowed in part, but there will be no order as to costs.
5. On January 18, 1988 this Court while dealing with C.M. P. No. 26210 of 1986 had permitted the respondents to withdraw the amount after furnishing bank guarantee and security for a sum of Rs 3 lakhs. The remaining amount was permitted to be withdrawn unconditionally. It is stated by Mrs. Shroff, the learned counsel for the respondents, that bank guarantee and security were furnished to the satisfaction of the Registrar of the High Court. In view of the present judgment, the security is discharged and the bank guarantee shall stand discharged except to the amount of interest mentioned in the award with the proportionate further interest allowed by the court.

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