

Jagdish Chander Bhatia

Vs

Lachhman Das Bhatia

Criminal Mise. Petn. No. 557 of 1989, In Criminal Appeal No. 32 of 1982

(K.N. Singh, J.S. Verma JJ)

12.10.1990

ORDER

1. There has been dispute between parties relating to property. In order to resolve the dispute this Court on September 5, 1986 with the consent of the parties passed the following order :

The parties have shown wisdom and pragmatism in arriving at an arrangement for referring the main civil dispute about property bearing Nos. 17-18, Double Storey New Rajinder Nagar, New Delhi to Arbitration . The agreement arrived at in this behalf which is produced before this Court shall be recorded. At the suggestion of the Court, parties have agreed that Shri V.D. Mishra, retired Chief Justice of the High Court of Himachal Pradesh who is now a senior counsel of this Court shall be the sole Arbitrator. Parties have also agreed that for the present each party will pay a sum of Rs. 3,000/- (Rupees three thousand only) to the learned Arbitrator in connection with the expense and remuneration of the learned Arbitrator subject to such further directions as the Arbitrator may hereafter give in this connection. The learned Arbitrator will decide as to which party shall bear the cost of Arbitration.

The learned Arbitrator will render a speaking or reasoned award within four months from the date on which the papers are presented by the parties before him. In view of the said agreement, the appeal must be allowed and the order of the High Court remanding the matter must be set aside.

The petitioner Jagdish Chander Bhatia did not deposit the expenses with the Arbitrator as directed by this Court. He raised objection to the Arbitration proceedings on the plea that the property in dispute was being resumed by the Union of India. Instead of pursuing the matter before the Arbitrator for the adjudication of his right to the property left by his father, the petitioner has approached this Court for keeping the Arbitration proceedings in abeyance till the dispute relating to the ownership is settled by the Union of India.

2. After hearing learned counsel for the parties we are fully satisfied that there is no necessity to keep the Arbitration proceedings in abeyance. The petitioner has raised frivolous pleas to delay proceedings before the Arbitrator. We have perused the affidavit filed on behalf of the Union of India which clearly indicates that the property is not being resumed instead certain steps are to be taken by the parties for execution of a fresh sale certificate. In fact, the affidavit indicates that the

petitioner had made application before the authorities of the Union of India that the sale certificate should not be issued during the pendency of his suit before the Court of Law. In this way, the petitioner has persuaded the authorities of the Union of India not to issue sale certificate and keep the dispute pending till the same is decided by the Courts. On other hand he has blocked Arbitration proceedings and he has approached this Court for staying the arbitration proceedings which were initiated for the decision of the dispute between the parties with a view to curtail litigation before the Courts. Once the petitioner agreed for the adjudication of the dispute by the Arbitration it is not open to him to resile at this stage. We find no justification for keeping the Arbitration proceedings in abeyance or for recalling the order dated 5-9-1986. We are of the view that the Arbitration proceedings should be pursued to its logical conclusion. We, accordingly, direct the petitioner to cooperate with the Arbitration proceedings for the adjudication of the dispute.

3. It has been brought to our notice that Shri V.D. Mishra, the sole Arbitrator appointed under the order of this Court dated 5-9-1986 is dead. It is, therefore necessary to appoint another person in his place. We appoint Shri M.S. Gujral, retired Chief Justice of High Court of Sikkim, who is now senior counsel of this Court as the sole Arbitrator to decide the dispute as specified in the order of this Court dated 5-9-1986. On account of the lapse of time and change of circumstances we think it necessary to enhance the amount payable to the Arbitrator as expenses and remuneration. We, accordingly, direct that a sum of Rs. 8,000/- shall be deposited with Shri M.S. Gujral towards his remuneration and expenses. In order to obviate delay in the matter Lachhman Das Bhatia respondent undertakes to deposit the aforesaid amount within three weeks. The liability of a party to share the cost of Arbitration will be decided by the Arbitrator. The parties should file the statement of their case along with the requisite papers within four weeks before the Arbitrator. The Arbitration will make every effort to render a speaking award within four months from the date on which the papers are presented before him by the parties. The Criminal Misc. Petition is, accordingly, rejected.

Petition rejected.

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