

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Jawad Akbar Sarwana

High Court Appeal No. 134 of 2020

Federation of Pakistan & others
Versus
M/s Al-Hassan Tech & Eng. Svc. (Pvt.) Ltd.

Date of Hearing: 18.10.2023

Appellants: Through Qazi Abdul Hameed Siddiqui,
Deputy Attorney General.

Respondents: Through Mr. Umair Usman Ghani Advocate.

J U D G M E N T

Muhammad Shafi Siddiqui, J.- An Award was filed before the learned Single Judge for making it Rule of the Court in Suit No.2652 of 2017. Award was heard, maintained and made Rule of the Court vide impugned judgment dated 24.02.2020.

2. Brief facts are that the parties entered into a construction contract dated 10.07.2008. The respondent was aggrieved on account of non-payment of contractual claims hence filed arbitration suit bearing No.1505 of 2012 followed by appointment of sole arbitrator who after hearing, filed the Award for making it Rule of Court. Notices were ordered and in response thereto objections to the Award were filed on 17.05.2018.

3. Heard the counsel.

4. Knowledge of Award was admitted by the appellant as is the delay in filing objections to the Award. Mr. Siddiqui very fairly conceded that the objections to the Award were barred by 30/31 days. Limitation is a right accrued to a party who may enforce it notwithstanding the merits of the case and the limitation would even run against a void order and

the time to be computed from the date of knowledge. Mr. Siddiqui even otherwise has not articulated any misconduct of the Arbitrator while proceeding with the matter.

5. Article 158 of the Limitation Act frames the time for filing objections to such Award which may articulate reasons for adjudging the Award to be set aside or to have an Award remitted back for reconsideration. Pursuant to the Act the time frame of 30 days is from the date of service of the filing of the Award. Award was filed on 22.12.2017 and the diary of the Additional Registrar dated 06.03.2018, disclosed that the defendants (appellants herein) were served prior to the said date whereas objections were filed on 17.05.2018. The objections thus were beyond statutory frame whereas grounds pleaded in the application, which seeks condonation of delay, are pathetic which for the convenience are reproduced as under:-

“3. That after receipt of notice the working conditions in Karachi became very difficult due to excessive LOAD SHEDDING by K. Electric. All the relevant departments faced great hardships in Co-ordinating with each other to reach a final conclusion in the case.

4. That the Counsel of the Respondents was seriously sick and hospitalized. He suffered from survival pain of pine and was incapacitated to do any work.”

6. None of the grounds could withstand the limitation prescribed while condoning the delay. The two grounds pleaded are not worth considering and rightly so the application was dismissed and we are in agreement with such dismissal of condonation application. In consequence whereof objections, which were provided beyond statutory frame could not be considered¹.

7. Despite these being barred by time learned Single Judge considered the objections to the Award and has very elaborately

¹ Per Saiduzzaman Siddiqui J. in Superintending Engineer Communication & Works Highway Circle Kohat v. Mian Faiz Muhammad & Co. Akora Khattak reported as PLD 1996 SC 797.

discussed each and every point. The points as attempted were/are that it was not an effective Award and material discussed in cursory manner; secondly that the amount was paid in good faith which was not appreciated by the learned Arbitrator; and thirdly that there was a relationship of principal and agent and the cancellation of such relationship is not a breach of contract. The learned Single Judge answered all the objections to the Award categorically though some of the points are not even pleaded including issues which were framed by consent.

8. The effective Award for outstanding claim and its recovery was made and in detail every fact and law was discussed in the Award. Agent is not deprived of claiming any amount as outstanding against his principal hence the grounds raised are frivolous and not germane to the spirit of Section 30 of Arbitration Act.

9. Mr. Siddiqui has failed to demonstrate if any part of the evidence was misread or that Arbitrator misconducted the proceedings. In fact after realizing the outcome of the decision with regard to condonation of delay, he has not utter a word on merit and the Court on its own perused the pleadings and impugned judgment to reach to an understanding if order of the learned Single Judge while making Award Rule of the Court has not appreciated the law.

10. Upshot of above is that we do not find any reason to interfere with the judgment of learned Single Judge in making the Award a Rule of the Court. The appeal as such is dismissed along with pending applications.

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