
2010 eGLR_HC 10005895

Before the Hon'ble MR K S JHAVERI, JUSTICE

ANIL SYNTHETICS Vs. S RAMAMOORTHY AND 1 - DEFENDANT(S)

FIRST APPEAL No: 2244 of 1987 , Decided On: 25/11/2010

Mehul S.Shah, Suresh M.Shah, Lalit K.Babulkar, Nanavati Associates

MR.JUSTICE KS JHAVERI

By way of present appeal, present appellant has

challenged the judgment and order dated 19/2/1987 of the City Civil Court at Ahmedabad in Civil Misc. Application No.346 of 1984 whereby the application preferred by opponent no.1 was allowed.

2. The facts of the present case are that the original applicant-opponent no.1 herein is a company registered under the Indian Companies Act and carrying on business of manufacturing cotton cloths. Appellant herein i.e. original respondent no.2 corporation is doing its business at Ahmedabad at other places of purchasing such cloths from such textile industries including original applicant company. Original respondent no.2 used to enter into various contracts with original applicant at Ahmedabad for purchasing various types of cloths at the rate mentioned in the contract entered into between them. Original applicant was legally entitled to recover Rs.15,61,730/95 for various goods from opponent no.2. Various contracts were signed and executed between original applicant and original respondent no.2 at Ahmedabad and one of the conditions of the said contract was appointment of arbitrator in case of dispute between the parties with respect to contracts. As per agreement dispute between the parties were referred to the arbitration of Textile Commissioner at Bombay and the arbitrator heard the parties and the arbitrator has made the award on 17/4/1984 awarding total amount of Rs.4,66,892.13 with interest at the rate of 12% with effect from 9/5/1984.

3. The original applicant has received notice in respect of making and signing of the award dated 17/4/1984 and therefore the original applicant has filed the Civil Misc. Application No.346 of 1984 in which the order impugned is passed directing that a decree shall be passed terms of the award dated 17/4/1984. Hence, present appeal is filed by the appellant herein.

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4. Learned counsel for the appellant has submitted that the learned City Civil Court has erred in law in holding that the Trial Court has jurisdiction to hear and decide the appeal. He has submitted that the reasonings given by the City Civil Court are erroneous and the learned Judge has erred in granting the relief beyond the claim in the application.

5. The Trial Court while considering the original application of applicant herein-original opponent no.1 which was filed under Section-14 of the Arbitration Act has discussed all the evidence available on record and after considering the same and considering the original award of arbitrator has allowed the application which was pronounced on 17/4/1984 which was produced at Annexure-I.

6. In view of the observations made in para-11 and 12 of the impugned judgment and order, it is evident that the Trial Court has discussed the matter at length and view of the learned Trial Court is just and proper. Award made by the arbitrator is after considering the agreement and contract between the parties. Before the learned Trial Court the appellant herein-original opponent no.2 has failed to file its objection against the application. I am therefore in complete agreement with the reasonings adopted and findings arrived at by the Trial Court. No case is made out to interfere with the order impugned in the appeal. The appeal is therefore dismissed.

Appeal dismissed

