

**ORDER SHEET.**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

F.A.O.No.62 of 2014  
Messrs Farooq Lime Merchant  
Versus  
OGDCL through Mr. Irfan Javed Warsi

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	17.11.2016	Mr. Pervaiz Akhtar Tahir, Advocate for the appellant, Mr. Khalil ur Rehman Abbasi, Advocate for the respondent

Through the instant appeal under Section 39(1)(vi) read with Section 17 of the Arbitration Act, 1940, ("the 1940 Act"), the appellant, Messrs Farooq Lime Merchant, impugns the order dated 04.06.2014, passed by the Court of the learned Civil Judge, Islamabad, whereby the respondent's application under Section 14 of the 1940 Act, was allowed and judgment & decree in terms of the arbitration award dated 22.05.2007 was passed.

2. The record shows that on 14.01.2002, an agreement was executed between the appellant and the respondent. The said agreement contained an arbitration clause, providing for the Managing Director, OGDCL, or his nominee to be the sole arbitrator. After differences and disputes developed between the appellant and the respondent arising from and related to the said contract, the respondent instituted arbitration proceedings, and filed a claim for Rs.15,443,853/- against the appellant. The arbitration proceedings culminated in an award dated 22.05.2007. The respondent, on 31.07.2007, filed an application under Section 14 of the 1940 Act praying for the arbitration award dated 22.05.2007 to be made a rule of court. On 13.05.2009, the appellant filed a detailed reply to the said application.

3. The file of this case went 'to and fro' between this Court and the learned Civil Court on account of the change in the pecuniary jurisdiction of this Court. Finally, on 04.06.2014, the learned Civil Court allowed the respondent's application under Section 14 of the 1940 Act, and made the arbitration award dated 22.05.2007 a rule of court by passing a judgment and decree in terms thereof. The learned Civil Court *inter-alia* observed that the appellant had not filed any objections to the arbitration award dated 22.05.2007. Furthermore, it was directed that the respondent/OGDCL shall issue an invoice of the quantity of 13.5 MCF from July, 2004 to February, 2005 and LPS charge till the closing of the financial year, i.e. 30.06.2006, and the appellant was directed to pay the amount against the invoice issued by the respondent/OGDCL within a period of 15 days.
4. Now, it is not disputed that the appellant did not file objections under Section 30 of the 1940 Act against the arbitration award dated 22.05.2007. The appellant did, however, file a detailed reply to the respondent's application under Section 14 of the 1940 Act.
5. The appellant has not bothered to file the agreement dated 14.01.2002, and the arbitration award dated 22.05.2007 before this Court. On account of this failure on the part of the appellant, we are in no position to determine as to whether the learned Civil Court was correct in passing a judgment and decree in terms of the said award. The said omission on the part of the appellant leads us to the conclusion that the instant appeal is just a half-hearted and a non-serious attempt by the appellant to set aside the impugned judgment and decree.

6. Article 158 of the first Schedule to the Limitation Act, 1908, mandates that objections to an arbitration award must be filed within 30 days of the notice of the award. The limitation starts from the time when the Court gives notice of the award to the parties. It is not denied that on 01.09.2007, the said arbitration award was filed in the Court. After notices were issued to the appellant, the appellant put in appearance on 23.09.2008. As mentioned above, the appellant did not, at any material stage, file objections to the said arbitration award. By not filing objections to the arbitration award, the appellant has only himself to thank for the judgment and decree dated 04.06.2014. Even if the appellant's reply dated 13.05.2009 to the respondent's application dated 31.07.2007 under Section 14 of the 1940 Act, is to be treated as objections to the arbitration award, the same were filed more than seven months after the appellant put in appearance before the learned Civil Court. However, a reply to an application under Section 14 of the 1940 Act cannot be treated as objections to the award in view of the law laid down in the case of Rashid Begum Vs. Muhammad Anwar (PLD 2003 Lahore 522), wherein it has, *inter-alia*, been held as follows:-

*"6. As regards the question, if the reply to an application under Sections 14 and 17 can be treated to be the objections in terms of Section 30, of the Arbitration Act, the law is well settled and the answer in the negative. Thus, if a party wants to seek setting aside of the award on the grounds mentioned in the Section, he must apply to the Court, through a separate proper application raising specific pleas."*

7. The learned counsel for the appellant was correct in his submissions that even though no objections to the arbitration award dated 22.05.2007 were filed by the appellant under

Section 30 or 33 of the 1940 Act, the learned Civil Court was nonetheless required to examine the validity of the award before making it a rule of court. It is well settled that a Court while examining the validity of an arbitration award does not sit as a Court of appeal. The Court cannot undertake the reappraisal of evidence adduced before the arbitrator. For an arbitration award to be set aside, there should be an error on the face of the award, and it should be discovered by reading the award itself. Perusal of the impugned judgment dated 04.06.2014 shows that the learned Civil Court has applied its mind to the contents of the arbitration award.

8. The learned counsel for the appellant has given us no plausible reason to interfere with the judgment and decree dated 04.06.2014, passed by the learned Civil Court. The Superior Courts have consistently held that law leans in favour of upholding the award and not vitiating it. Reference in this regard has been made to the law laid down in the cases of Ashfaq Ali Quraishi Vs. Municipal Corporation, Multan (1985 SCMR 597), Province of Punjab Vs. Sh. Fazalul Hussain (2003 CLC 1780), Khalid Abbas Vs. Hafiz Muhammad Farooq (2004 YLR 274), and Chand Bagh Foundation through Authorized Representative Vs. Messrs Rehman Brothers (Pvt.) Limited through Chief Executive (2007 CLC 751).

9. By reasons of the aforementioned, we do not find any merit in this appeal, which is accordingly dismissed.

**(ATHAR MINALLAH)**  
**JUDGE**

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**