

# **Teja Singh Soorma vs Union Of India (Uoi) And Anr. on 28 July, 1955**

**Equivalent citations: AIR1955ALL666, AIR 1955 ALLAHABAD 666**

**Author: Raghubar Dayal**

**Bench: Raghubar Dayal, V. Bhargava**

## **JUDGMENT**

Raghubar Dayal, J.

1. A certain dispute between the applicant and the North-Eastern Railway was referred to an arbitrator in terms of the contract. The arbitrator asked the applicant to state his claim and the claim was stated and then the arbitrator called upon the applicant to deposit a certain amount as his fees.

The applicant did not deposit the amount and let the statutory period for the making of the award expire. The arbitrator then asked the parties to first get the order of the court for extending the time to make the award. He did not act further in the matter because his fees had not been paid. The applicant thereupon put in an application under Section 11 of the Arbitration Act before the Civil Judge, praying for the removal of the arbitrator on account of his misconduct. The misconduct alleged was that the arbitrator demanded fees from one of the parties only, insisted on payment before acting further as an arbitrator and, in effect, neglected to deliver the award.

The opposite parties supported the arbitrator's conduct and the learned Civil Judge held that the arbitrator was justified in demanding his fees, that the amount of fees was not exorbitant but was reasonable and that the arbitrator could demand payment of his fees before proceeding further with the arbitration proceedings.

He considered Sections 14 and 38 of the Arbitration Act and found that there was nothing in the Act which compelled an arbitrator to act without payment of fees in case he wanted fees. He, therefore, rejected the application, holding that the arbitrator had not misconducted himself. It is against this order that the applicant has come up in revision to this Court.

2. We are of opinion, that this order is not open to revision under Section 115 of the Civil P. C. The learned Civil Judge acted within his jurisdiction. It is not disputed that he had jurisdiction to deal with this application, under Section 11 of the Arbitration Act.

What is contended is that he came to a wrong conclusion and did not pass the order which he would have passed, had he come to a correct conclusion, and that, therefore, he did not either exercise jurisdiction vested in him or acted with illegality or material irregularity in the exercise of his jurisdiction. We do not agree with this contention in view of a decision, of the Supreme Court in -- 'Keshardeo v. Radha Kissen and others', AIR 1953 SC 23 (A).

To come to an erroneous conclusion, does not amount to acting with material irregularity or illegality and a court has as much jurisdiction to pass a correct order as a wrong one.

3. It is lastly contended that the court below ignored the provisions of Section 14 of the Arbitration Act. This is not correct. The court referred to those provisions and Section 14 does not say that an arbitrator must proceed with the arbitration proceedings without payment of his fees. Sub-section (1) of Section 14 simply says that when the arbitrators have made their award, they shall sign it and shall give notice in writing to the parties of the making and signing thereof and of the amount of fees and charges payable in respect of the arbitration and the award.

Of course, if fees have not been paid by that time, notice of such fees would be given at that stage; but if fees have been paid earlier, no such notice would be necessary. This sub-section does not say that fees cannot be demanded at an earlier stage or that the arbitrators must proceed to make the award whether fees have been paid to them or not.

There is no provision in the Arbitration Act which would enable an arbitrator to realise his fee in case none of the parties pays it and none of the parties desires the filing or the delivery of the award. The absence of any such provision by which the arbitrator can realise his fee once he has acted as an arbitrator indicates, to our minds, that the law did not contemplate that an arbitrator must proceed with arbitration proceedings without payment of his fees in case he wanted them to be paid before acting in the arbitration proceedings;

It cannot, therefore, be said that the court below ignored to consider the provisions of Section 14 of the Arbitration Act or of any other mandatory provision, of the Act. The case of -- 'Raghubir Singh alias Raghubir Singh v. Mulchand', AIR 1937 All 598 (FB) (B), does not apply to the facts of this case. In that case, the provisions of Section 30' of the U. P. Agriculturists' Relief Act had been ignored by the lower court.

4. In view of the above, we reject this application'.