

Ramdas Oil Mills vs Union Of India (Military Deptt.) on 7 December, 1976

Equivalent citations: AIR1977SC638, (1977)1SCC592, AIR 1977 SUPREME COURT 638, 1977 (1) SCC 592

Author: A.N. Ray

Bench: A.N. Ray, Jaswant Singh, M.H. Beg

JUDGMENT

A.N. Ray, C.J.

1. This appeal is by certificate from the judgment dated 27 November 1967 of the Patna High Court.
2. The appeal arises out of an award dated 1 March 1962 passed by the District Judge of Singhbhum at Chaibassa as an arbitrator under Section 19 of the Defence of India Act, 1939 (hereinafter referred to as the Act).
3. The property of the appellant was requisitioned. He claimed compensation. The matter was referred to the arbitrator.
4. Before the arbitrator the appellant claimed compensation under several heads amounting to Rupees 1,07,130/-. The two important claims were first, compensation for damages to building was assessed by the appellant at Rs. 34,000/- and second, interest was claimed for Rs15,216/-.
5. The other heads under which the appellant claimed compensation were for Galvanised Iron Water Pipes at Rs. 20,000/- and compensation for removal of entire electric wirings and fittings at Rupees 20,000/-.
6. The arbitrator awarded Rs. 10,000/- as compensation for damages to building. He also gave interest slightly in excess of the amount claimed. He also awarded a sum of Rs. 8,000/- for Galvanised Iron Water Pipes.
7. An appeal was preferred to the High Court by the Government. An appeal lies to the High Court under Section 19(1)(f) of the Act.
8. It has been held by this Court in Collector of Varanasi v. Gauri Shankar Misra that the High Court in hearing an appeal under Section 19 of the Act acts as an appellate Court and not as a Court hearing an application for setting aside an award.

9. The High Court reduced the award of the arbitrator from Rs. 10,000/- to Rs. 6,545/- under the head 'damages to building'. The High Court also reduced the claim for Galvanized Iron Water Pipes from Rs. 8,000/- allowed by the arbitrator to Rs. 2,556.62/-. The High Court disallowed the interest.

10. Counsel for the appellant pressed really these three claims. We are unable to accept the submission of the appellant. The High Court rightly disallowed the major part of the claim of compensation for 'damages to building' and also for 'G.I. Water Pipes.' The principal reason given by the High Court is that account books were maintained in respect of construction and repairs to the building by the appellant but no such accounts were produced. It is also said by the High Court that the appellant did not produce account books which would have shown the length of the pipes used for running the mills. It is well settled that if a person does not produce account books which are in his possession an adverse inference can be drawn for non-production thereof, See 'Seth Maganmal Since Deceased v. Darbarilal Chowdhry reported in AIR 1928 PC 39 at page 42 where the Judicial Committee observed to that effect.

11. A claim for interest is not a matter of right. It is also well settled that interest by way of damages cannot be awarded. The High Court rightly disallowed interest which had been awarded by the arbitrator.

12. For these reasons the appeal fails and is dismissed. There will be no Order as to costs.