



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Miscellaneous Appeal No. 2109/2007

Union Of India, through Executive Engineer, Border Fencing
Central Public Works Department, Jaisalmer.

----Appellant

Versus

Shri V. S. Saini

V.S. Saini Engineer Garment Contractor, Village Korba,
P.O. Sarna, Pathankot (Punjab).

----Respondent

Connected With

S.B. Civil Miscellaneous Appeal No. 2110/2007

Union Of India, through Executive Engineer, Border Fencing
Central Public Works Department, Jaisalmer.

----Appellant

Versus

Shri V. S. Saini

V.S. Saini Engineer Garment Contractor, Village Korba,
P.O. Sarna, Pathankot (Punjab).

----Respondent

For Appellant(s) : Mr. V.K. Aggarwal
For Respondent(s) : Mr. Saransh Vij
Mr. Manish Sangela
Mr. Gaurav Kumar Singh

HON'BLE MR. JUSTICE SANDEEP SHAH

Judgment

Reportable:-

- | | |
|---|----------------------|
| 1. Date of conclusion of arguments | 18/04/2026 |
| 2. Date on which judgment was reserved | 18/04/2026 |
| 3. Whether the full judgment or only the operative part is pronounced: | Full Judgment |
| 4. Date of pronouncement | 30.04.2026 |

1. The present Civil Miscellaneous Appeals have been filed under Section 39 of the Arbitration Act, 1940 against the orders



dated 09.09.2005 passed by the learned District Judge, Sri Ganganagar, in Miscellaneous Civil Case Nos. 75/2001 and 76/2001 titled (*Union of India v. Shri V.S. Saini*), relating to different claims of the same claimant and pertaining to almost identical periods and the same nature of work. By the said orders, the application filed by the appellant under Section 30 of the Arbitration Act, 1940 (hereinafter referred to as "the Act of 1940" for the sake of brevity) for setting aside the awards came to be dismissed and the awards were made rule of the Court. Since the issues involved in both the appeals pertain to the same period and arise out of contracts of similar nature, though relating to adjacent places, concerning the same nature of work and covering the same duration of time, the present appeals are being decided together.

2. Briefly stated, the facts of the case are that pursuant to the Notice Inviting Tenders issued by the appellant for construction of security fencing along the Indo-Pak Border in Rajasthan, from Pillar No. 313 to 316 and from Pillar No. 316 to 318, two separate but identical tenders were issued for the year 1991-92. The claimant-respondent participated in the tender process and, for finalization of the tenders, negotiations were held, wherein certain items, which were initially stipulated to be provided by the appellant, were agreed to be provided by the claimant. Subsequently, the work was commenced. As per the tender conditions for the work relating to Pillar No. 313 to 316, the work was to commence from 19.10.1991 and was to be completed by 01.01.1992, and as per the tender conditions for the construction



from Pillar No. 316 to 318, the period of the contract was to commence from 03.10.1991 and to end on 16.12.1991.

3. It was the case of the claimant-respondent that certain additional works, including construction of additional struts on both sides of the fencing and provision of M.S. Flats, were undertaken by the claimant at the instance of the appellant. The claimant thereafter approached the appellant for appointment of an Arbitrator. With the consent of the parties, a sole Arbitrator, Shri S.S. Juneja, Arbitrator in the Ministry of Urban Development, New Delhi, was appointed. The claimant-respondent thereafter submitted eleven claims for adjudication before the learned Arbitrator. The appellant-Union of India filed its reply objecting to the said claims, whereafter a rejoinder was filed by the claimant-respondent, and a counter to the rejoinder was filed by the appellant-Union of India. The learned Arbitrator thereafter, by way of awards dated 22.02.1996, decided the claims partly in favour of the claimant-respondent, inasmuch as Claim Nos. 1 and 2 (in both cases), relating to additional amounts for construction of struts and supply of M.S. Flats, were allowed in favour of the claimant-respondent. The learned Arbitrator also awarded interest at the rate of 14% per annum from 21.06.1995, i.e., the date of reference, till the date of payment of the decretal amount in favour of the claimant-respondent.

4. Being aggrieved by the said awards, the appellant filed two separate objections/applications before the learned District Judge, Sri Ganganagar, under Section 30 of the Act of 1940 for setting aside the awards on the ground that the learned Arbitrator had misconducted himself as well as the proceedings. Along with the





said objections/appeals, an application under Section 5 of the Limitation Act, 1963 was also filed, inter alia, contending that after receipt of notice of the awards, the matter was forwarded for obtaining necessary approvals; however, during the relevant period, elections had taken place and a new Government had come into power, as a result whereof certain administrative decisions were delayed.

5. The learned District Judge, vide orders dated 09.09.2005, dismissed the applications filed by the appellant under Section 5 of the Limitation Act, 1963, and also rejected the objections filed under Section 30 of the Act of 1940, while considering the matter on merits as well. Being aggrieved by the orders so passed by the learned District Judge, Sri Ganganagar, the present appeals have been filed under Section 39 of the Act of 1940.

6. Learned counsel for the appellant submitted that the expression used in the agreement provided that at every tenth post, end post and corner post, strutting was to be carried out with M.S. Angle Iron Struts on **"either"** side of different sizes, and therefore, upon taking the dictionary meaning of the word "either", it is clear that the same denotes both sides and not merely a single side. Learned counsel submitted that the drawings, which formed part of the agreement (page No. 41 of the record), also specify provision of M.S. Angle Iron Struts on both sides. Learned counsel also contended that the learned Arbitrator misconducted himself by not considering the dictionary meaning of the word "either" and by treating the expression "either" to mean only one side and not both sides. Learned counsel further submitted that, so far as Claim No. 2 is concerned, the claimant



failed to establish that the M.S. Flats were to be supplied by the department, and thus, awarding the cost of M.S. Flats, which were allegedly provided by the claimant, amounts to misconduct on the part of the learned Arbitrator. Therefore, the impugned award deserves to be quashed and set aside.

6.1 Learned counsel further submitted that the learned District Judge failed to exercise jurisdiction vested under Section 30 of the Act of 1940 and proceeded to decide the matter on surmises and conjectures without properly considering the contents of the agreement and the material available on record. Learned counsel further submitted that the orders dated 09.09.2005 passed by the learned District Judge deserves to be quashed and set aside, and consequently, the awards impugned in the present appeals also deserve to be set aside. Learned counsel further submitted that the learned District Judge failed to consider that the appellant had shown sufficient cause for delay in filing the objections/appeals, inasmuch as elections had taken place during the relevant period and the requisite Government sanction was obtained belatedly, on account of which delay occurred in filing the objections/appeals. Learned counsel further submitted that non-entertainment of the objections on the ground of delay was ex facie illegal and, therefore, the impugned orders deserve to be quashed and set aside.

7. *Per contra*, learned counsel for the claimant-respondent, while supporting the awards as well as the orders passed by the learned District Judge, submitted that, so far as the aspect of delay is concerned, needless to emphasize that objections for setting aside an award passed by the learned Arbitrator are





required to be filed within a period of 30 days, failing which the award is liable to be made rule of the Court. Learned counsel submitted that admittedly no sufficient reasons have been assigned for condonation of delay in the application filed under Section 5 of the Limitation Act, 1963 by the appellant. Learned counsel further submitted that merely stating that time was consumed in obtaining administrative sanctions cannot be said to be a reasonable ground for condoning the delay, more particularly in arbitration matters, and especially when there was a substantial delay of 117 days in filing the objections.

7.1 Learned counsel further submitted that the learned District Judge has rightly dismissed the application filed under Section 5 of the Limitation Act, 1963 and has rightly refused to condone the delay in filing the objections under Section 30 of the Act of 1940.

7.2 On merits, learned counsel submitted that a bare perusal of the terms of the contract would reveal that the language used therein provided for strutting on "either" side of every tenth pillar. Learned counsel further submitted that the expression "either" means one side and not both sides. Learned counsel further submitted that there were drawings of both kinds, inasmuch as the drawing at page No. 128 of the record depicts provision of M.S. Angle Iron Strut on a single side only.

7.3 Learned counsel further submitted that, as per the terms of the contract, the provision relating to M.S. Angle Iron Struts on either side was to be construed to mean that strutting was to be carried out on a single side at every tenth post and not on both sides. Learned counsel further submitted that the learned Arbitrator has rightly considered the same and that even the





learned District Judge has duly considered the definition and dictionary meaning of the word "either", and thereafter passed the impugned orders. As regards Claim No. 2, learned counsel for the claimant-respondent submitted that as per the terms of the contract, it was clear that the M.S. Flats as well as M.S. Spikes were to be supplied by the Department free of cost. Learned counsel further submitted that, upon negotiations being held, it was agreed that the M.S. Spikes would be provided by the claimant-respondent, whereas there was no agreement so far as provision of M.S. Flats were concerned.

7.4 Learned counsel further submitted that it was the obligation of the Department to supply the M.S. Flats. Learned counsel further referred to document R-15 dated 12.09.1991 executed post negotiations, placed on record by the appellant themselves, wherein the claimant had agreed only to provide multi-dimensional M.S. Spikes, which, as per the contract, were otherwise to be supplied by the Union of India. Learned counsel further submitted that there is no reference whatsoever with regard to supply of M.S. Flats by the claimant in the letter/offer dated 12.09.1991, and therefore, the learned Arbitrator as well as the learned District Judge have committed no error in deciding the claim in favour of the claimant-respondent and in dismissing the objections filed by the appellant. Learned counsel thus prayed for dismissal of the appeals filed by the appellant.

8. Having considered the arguments advanced by both sides, the first and foremost question for consideration before this Court is as to what meaning is to be assigned to the word "**either**" as





used in the agreement. For ready reference, Clauses 1, 2 and 3 of the agreement are reproduced hereunder:-

"1. Providing and fixing security fencing of G.I. barbed wire consisting of M.S. Angle iron posts 100X100X8 mm 3440 mm length above ground level (2440 mm vertical and 1000 mm slanting at 30° to horizontal duly fabricated and welded at bend as per drawing) and 50 mm below ground level placed at 3000 mm center to center and embedded in cement concrete blocks 600 mm dia 1150 mm deep. **Every tenth post, end post and corner posts to be strutted with MS Angle iron strut on either side of size 100X100X6 mm 3950 mm in length (200 mm vertical at top and 3750 mm slanting down) fabricated and welded as per drawing duly bolted to vertical posts, with two 12mm dia. 50mm long bolts and nuts, struts, embedded in cement concrete block 1000X600X600mm placed at 1150mm below ground level including providing and fixing galvanized iron barbed wire of size 2.5X2.00mm (weight to be not less than 108gms. per meter length) conforming to IS code 2781978 in 23 horizontal rows (16 rows in vertical portion and 7 rows in slanting portion) to be fixed and stretched with M.S Hooks/tightening bolts (as per drawing) properly woven with two diagonals of same G.L barbed wire to be fixed to angle iron posts in holes with 2.5mm dia and 50mm long G.I. staples/clips and providing vertical strands of barbed wire properly interwoven with horizontal rows of barbed wire at spacing of 150mm upto a height of seven rows of fencing above ground level, adequately tied at three places in staggered manner with GL wire of not less than 16 gauge, and fixing of prefabricated M.S. Flats containing multidirectional thin and sharp M.S. Spikes in goose neck portion with three nos. 10mm dia M.S. bolts and nuts in each flat **(M.S. Flats containing M.S. Spikes shall be supplied by the department free of cost)** including applying a coat of ready mixed zinc chromate yellow primer and two or more coats with synthetic enamel paint of approved brand and manufacture to give an even shade on all steel work except portion embedded in cement concrete. The foundation concrete blocks for vertical posts and struts shall be of cement. concrete 1:3:6 (1 cement 3 Sand (of**





finess modulus not less tan 1.2) 6 stone aggregated. 20mm nominal size) including excavation in all kinds of soil and the const of centering and shuttering, back filling of earth in foundation, disposal of surplus earth surface dressing of ground etc. complete.

A. Deduct for providing 5 to 6 wraps in barbed wire near straining bolts instead of 8 wraps.

B. deduct for providing 16 gauge G.I. binding wire having 5 tuns (Average) instead of 16 gauge G.1. binding wire having 6 terms.

C. Deduct for not hoisting angle iron post in true plumb.

2. Providing and fixing security fencing of G.1. barbed wire consisting of M.S. Angle iron posts 65X65X6 mm 725 mm length above ground level and 500 mm below ground level including providing 75 mm long 12 mm dia M.S. round bar pointed spile at the top of angle iron post by welding, placed at 3000 mm center to center duly embedded in cement concrete block 300 mm dia, 650 mm deep. Every tenth post, and post and corner posts to be strutted with M.S. Angle iron strut on either side of size 65X65X6 mm 1400 mm in length (200 mm vertical at top and 1200 mm slanting down) fabricated and welded as per drawing duly bolted to vertical posts, with two 12mm dia 50mm long bolts and nuts, struts. in embedded cement concrete block 600X500X500mm placed at 650mm below ground level including providing and fixing galvanized iron barbed wire of size 2.5X2.00mm (weight to be not less than 108gms. per meter length) conforming to IS code 278-1978 in 5 horizontal rows to be fixed and stretched with M.S. Hooks/tightening bolts (as per drawing) G.I. barbed wire to be fixed to angle iron posts in holes with 2.5mm dia and 50mm long G.1. staples/clips including applying a coat of ready mixed zinc chromate yellow primer and two or more coats with synthetic enamel paint of approved brand and manufacture to give an even shade on all steel work except portion embedded in cement concrete. The foundation concrete blocks for vertical posts and struts shall be of cement concrete 1:3:6 (1) cement: 3 Sand (of finess modulus not less tan 1.2) 6 stone aggregated 20mm nominal size) including excavation in all kinds of soil and the const of centering and shuttering, back filling of earth in





foundation, disposal of surplus earth surface dressing of ground etc. complete.

A. Deduct for providing 5 to 6 wraps in barbed wire near straining bolts instead of 8 wraps.

B. deduct for providing 16 gauge G.L binding wire having 5 tuns (Average) instead of 16 gauge G.1. binding wire having 6 terms.

C. Deduct for not hoisting angle iron post in true plumb.

3. Providing and fixing security fencing of G.I. barbed wire consisting of M.S. Angle iron posts 75X75X6 mm 3290 mm length above ground level and 1000 mm below ground (as per drawing) placed at 3000mm center to center duly embedded in cement concrete block 600 mm dia, 1150 mm deep. **Every tenth post, and post and corner posts to be strutted with M.S. Angle iron strut on either side of size 75X75X6 mm 3950 mm in length** (200 mm vertical at top and 1200 mm slanting down) fabricated and welded as per drawing duly bolted to vertical posts, with two 12mm dia. 50mm long bolts and nuts, struts, embedded in cement concrete block 1000X600X600mm placed at 1150mm below ground level including providing and fixing galvanized iron barbed wire of size 2.5X2.00mm (weight to be not less than 108gms. per meter length) conforming to IS code 278-1978 in 22 horizontal rows to be fixed and stretched with M.S. Hooks/tightening bolts (as per drawing) and properly woven with tow diagonals of same G.I. barbed wire to be fixed to angle iron posts in holes with 2.5mm dia and 50mm long G.I. staples/clips providing and fixing of prefabricated prefabricated M.S. Flats containing multi directional thin and sharp M.S. Spikes in goose neck portion with three nos. 10mm dia M.S. bolts and nuts in each flat including applying a coat of ready mixed zinc chromate yellow primer and two or more coats with synthetic enamel paint of approved brand and manufacture to give an even shade on all steel work except portion embedded in cement concrete. The foundation concrete blocks for vertical posts and struts shall be of cement concrete 1:3:6 (1 cement 3 Sand (of finess modulus not less tan 1.2) 6 stone aggregated 20mm nominal size) including excavation in all kinds of soil and the const of centering and shuttering, back filling of earth in foundation, disposal of surplus earth surface dressing of ground etc. complete.





A. Deduct for providing 5 to 6 wraps in barbed wire near straining bolts instead of 8 wraps.

B. deduct for providing 16 gauge G.I. binding wire having 5 tuns (Average) instead of 16 gauge G.I. binding wire having 6 terms.

C. Deduct for not hoisting angle iron post in true plumb."

9. A perusal of the aforesaid clauses would reveal that the expression used therein provides that every tenth post, end post and corner post is to be strutted with M.S. Angle Iron Struts on "either" side of size ----- . The same expression has been used in all the three clauses, and only the dimensions of the sizes differ in each of the said clauses.

10. If we go back to the dictionary meaning of the word "**either**", Black's Law Dictionary defines the words "**either**" as under:-

"Each of two; the one and the other; one or the other of two alternatives; one of two."

11. So far as the Shorter Oxford English Dictionary is concerned, the same defines the word "either" to mean "one or other of the two; any one of two; each of two; each of more than two." It would thus be evident that the word "either" has been used in different contexts, meaning either one of the two or both of the two, depending upon the usage in a given sentence. An identical issue with regard to the use of word "**either**" and its significance came up for consideration before the Bombay High Court in the case of "**Sadrudin Suleman Jhaveri v. J.H. Patwardhan, 1964, SCC, OnLine Bombay 42;** wherein the Bombay High Court, while dealing with the use of the word "**either**" used in Section 17 of the Land Acquisition Act, 1894, held as under:-





"He says that the key word in this section in the word "either" preceding the words "of the preceding Sub-sections" that is to say, it means "either of the Sub-section (1) or (2) and so reading it, it is impossible to apply Sub-section (3) unless we read into the word "arable" in Sub-section (1) the meaning that it includes cultivated lands also. It is urged that otherwise the subsequent words of Sub-section (3) "offer to the persons interested compensation for the standing crops and trees (if any) on such land" would be rendered nugatory. The argument is that between Sub-section (1) and (2) there are contemplated three categories of lands, waste land, arable land and any land and then Sub-section (3) says that in every case under either of the preceding Sub-Sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees if any, Obviously, then, if arable land does not include cultivated land, then the words "crops and trees" could not apply, certainly not the word "crop" and, therefore, Sub-section (3) indicates that implicit in the meaning of the word "arable" is included cultivated land.

We are unable to accept this contention, because in the first place the word "either in the opening clause of Sub-section (3) does not necessarily carry the meaning "both" as the Advocate General contends. The word "either" is used to mean "both" or "any one of two". In this case it is clear that it qualifies the words "preceding Sub-section". The expression is "in every case under either of the preceding Sub-sections" So used it is clear that it is used as an adjective and according to the Oxford Dictionary its meaning is "each of the two". In Middle English its sense is indicated as "one or other of the two". It may also be used in the plural when it may imply both, but the Oxford Dictionary indicates that that sense is very rarely used. These senses are explained by a number of illustrations and one of the illustrations given is from one Chesterton's letters as follows: "When the sun shines on either side of us (as it does mornings and evenings) the shadows are very long". Another example given is "The artificial thunder, in the hands of either nation, must have turned the fortune of the day". The word "either" in the expression "either of the preceding sub-sections" thus means "each of the two





preceding Sub-sections". So used it cannot possible imply "both the sub-sections". What is more, the words are preceded by the words "In every case" which again emphasizes that the sub-section deals with each individual case separately arising under each of the two sub-sections. We do not think that in the context in which it is used the word "either" implies "both" the preceding sub-sections, but what it means is "In every case under either Sub-section (1) of Sub-section (2)". or in other words "each of the two sub-sections". Moreover, we shall presently show that nothing turns upon the meaning of the word "either" and that the key words of the sub-section are the words, "if any" in the brackets and if one the carefully considers why those words were at all put in, in the section the construction sought to be put upon the word "either" by the learned Advocate General must fail."

12. The Court, in the aforesaid judgment, essentially dealt with the dictionary meaning of the word "either" and held that it is used in different contexts, i.e., "one or the other of the two" or "each of the two." The Court also considered various illustrations and observed that the meaning of the word has to be construed in the context in which it is used. It was further held that the word "either" does not necessarily include both.

13. Juxtaposing the definition of the word "either", as provided in the dictionaries, as well as the judgment referred to hereinabove, with the expression used in the contract, it cannot be conclusively held that the word "either" necessarily means both. Rather, the terms of the contract appear to be ambiguous and capable of being interpreted in more than one manner, i.e., providing of M.S. Angle Iron Struts on one side or on both sides. If the appellant intended that strutting should be carried out on both sides, then the appropriate terminology to be used ought to have been "both





sides” and not “either side”, as the latter expression is capable of different interpretations.

14. So far as the analogy sought to be drawn from the drawings is concerned, a perusal of the drawing forming part of page No. 41 of the record merely indicates the nature of the structure to be created and does not specifically depict that the angle iron struts were to be provided on both sides. On the contrary, the drawing at page No. 128 of the record depicts the angle iron strut on a single side only. Thus, the terms of the contract were not sufficiently clear to specify that the angle iron struts were required to be constructed on both sides of the posts in question. When the terms of the contract are capable of more than one interpretation and the learned Arbitrator has adopted one of the possible and plausible interpretations, the same, by itself, cannot be a ground for interference with the award in question under Section 30 of the Act of 1940.

15. Secondly, so far as the issue relating to Claim No. 2 is concerned, a bare perusal of the description of Item Nos. 1 to 3 of the agreement, as quoted hereinabove, would reveal that M.S. Flats containing M.S. Spikes were to be supplied by the Department free of cost. Thereafter, negotiations were held and, as per document R-15 dated 12.09.1991 placed on record by the claimant-respondent themselves, the claimant agreed to reduce the rates and further agreed to provide M.S. Spikes on his own, which were initially required to be supplied by the Department. However, there was not even a whisper with regard to any agreement for providing M.S. Flats by the claimant. This, coupled with Annexures E to H placed on record by the claimant-





respondent, would show that from the very inception, the claimant-respondent had been requesting payment of the cost of M.S. Flats, which were additionally provided by him without the same being supplied by the appellant.

16. The appellant has not been able to place anything on record to rebut the averments made by the claimant-respondent; rather, the documents placed on record by the appellant themselves clarify the position that the claimant-respondent had agreed only to provide M.S. Spikes and not M.S. Flats. The learned Arbitrator has rightly considered this aspect of the matter while awarding the cost of M.S. Spikes to the claimant-respondent while deciding Claim No. 2.

17. This Court does not find any illegality or misconduct on the part of the learned Arbitrator while deciding the issues in hand. So far as the aspect relating to interest is concerned, though no arguments were advanced in this regard by learned counsel for the appellant, however, Section 29 of the Act, 1940 itself provides as under:-

"Section 29:- Where and in so far as an award is for the payment of money the Court may in decree order interest, from the date of the decree at such rate as the court deems reasonable, to be paid on the principal sum as adjudged by the award and confirmed by the decree."

17.1 Thus, there was ample power available with the learned Arbitrator for awarding interest.

18. So far as the scope of interference in an application under Section 30 of the Act, 1940 is concerned, it would be relevant to mention here that the Supreme Court of India has consistently held that the scope of interference under Section 30 of the Act of





1940 is limited, and the grounds for setting aside an award are circumscribed. The provisions of Section 30 of the Act, 1940 provide as under:-

"30. Grounds for setting aside award. - An award shall not be set aside except on one or more of the following grounds, namely:

- (a) that an arbitrator or umpire has misconducted himself or the proceedings;*
- (b) that an award has been made after the issue of an order by the Court superseding the arbitration or after arbitration proceedings have become invalid under Section 35;*
- (c) that an award has been improperly procured or is otherwise invalid."*

19. A perusal of the same would reveal that, so far as the case in hand is concerned, the challenge to the award is primarily on the ground that the learned Arbitrator had misconducted himself as well as the proceedings. There is no allegation of any violation of the principles of natural justice or of bias on the part of the learned Arbitrator. The only ground urged is with regard to alleged non-consideration of documents, more particularly the interpretation of the word "either" as used in the agreement. At best, the appellant has attempted to make out a case of perversity. However, as observed hereinabove, a perusal of the record reveals that the learned Arbitrator has considered all the relevant documents threadbare and thereafter arrived at the conclusion that the word "either" did not mean both sides and that, so far as provision of M.S. Flats is concerned, the same was the responsibility of the appellant alone. The findings recorded by the learned Arbitrator are duly supported by the documents on record, and it is not even the case of the appellant that the award





is a non-speaking award. Thus, even ground of perversity is not made out.

20. This Court, thus, finds that there is no misconduct on the part of the learned Arbitrator or in the conduct of the proceedings, and the learned District Judge also has rightly refused to set aside the award while exercising power under Section 30 of the Act of 1940. The Hon'ble Apex Court, in the case of "**Bhagawati Oxygen Limited v. Hindustan Copper Limited, 2005 6 SCC 462**"; had an occasion to deal with the scope of interference under Section 30 of the Act of 1940, and held as under:-

"25. This Court has considered the provisions of Section 30 of the Act in several cases and has held that the court while exercising the power under Section 30, cannot re-appreciate the evidence or examine correctness of the conclusions arrived at by the Arbitrator. The jurisdiction is not appellate in nature and an award passed by an Arbitrator cannot be set aside on the ground that it was erroneous. It is not open to the court to interfere with the award merely because in the opinion of the court, other view is equally possible. It is only when the court is satisfied that the Arbitrator had misconducted himself or the proceedings or the award had been improperly procured or is 'otherwise' invalid that the court may set aside such award."

21. In the said judgment, the Court has also dealt with the issue relating to award of interest and held as under:-

"36. The last question relates to payment of interest. The Arbitrator awarded interest to BOL at the universal rate of eighteen per cent for all the three stages, pre-reference period, pendente lite and post award period. It is not disputed that in the arbitration agreement there is no provision for payment of interest. The learned single Judge as well as the Division Bench were right in observing that the Arbitrator, in the facts and circumstances, could have





awarded interest. The Arbitrator had granted interest at the rate of eighteen per cent on the ground of loan so advanced by HCL to BOL at that rate.”

22. It is thus clear that, so far as the aspect of interest is concerned, the learned Arbitrator is entitled to award interest for the pre-reference period, pendente lite, as well as for the post-award period. So far as the scope of interference is concerned, it has been clearly held by the Hon'ble Apex Court that merely because another view is equally possible, the view taken by the learned Arbitrator cannot be a ground for interference with the award. It has further been held that interference with an arbitral award is warranted only in cases where the learned Arbitrator has acted arbitrarily, irrationally, capriciously, or beyond the terms of the agreement.

23. This Court further cautions that the jurisdiction under Section 30 of the Act of 1940 is not to be exercised lightly, and that when a question of interpretation arises, the decision of the learned Arbitrator cannot be set aside merely because the Court itself may have arrived at a different conclusion. Taking guidance from the principles laid down hereinabove, this Court is of the considered view that the learned Arbitrator did not commit any misconduct, either personally or in the conduct of the proceedings, and that there were justifiable reasons for allowing Claim Nos. 1 and 2 as well as for awarding interest, which findings are duly supported by the documents available on record and pertain to construction and interpretation of the terms of the contract. The learned District Judge has also not committed any error while dismissing the application for setting aside the award.





24. This Court, while hearing appeals against orders passed under Section 30 of the Act of 1940, is again vested with a limited scope of interference and cannot go beyond the contours of the grounds of interference as provided under Section 30 of the Act of 1940. Learned counsel for the appellant was not able to point out any ground demonstrating misconduct on the part of the learned Arbitrator or any illegality or perversity in passing the impugned awards.

25. As far as the question of limitation is concerned, needless to emphasize that admittedly the limitation prescribed for filing objections under Section 30 of the Act of 1940 is 30 days from the date of receipt of notice of the award. In the present case, there is an admitted delay of 117 days in filing the objections, inasmuch as the award was passed on 02.02.1996 and a copy thereof was received by the appellant on 26.03.1996. However, the objections/appeals came to be filed on 20.07.1996, and thus there was a gross delay of 117 days in filing the same. The explanation furnished by the appellant to the effect that administrative sanctions were delayed on account of change of Government cannot be treated as a sufficient cause for condoning the delay. Furthermore, no specific details as to when the sanction was sought, what steps were undertaken in the process, and at which stage the matter remained pending, have been set out in the application filed under Section 5 of the Limitation Act, 1963. Needless to emphasize that in arbitration matters, delay is required to be explained with greater rigor, and merely because the appellant is the Union of India, the same does not enjoy any special latitude over and above that available to any other litigant.



There were no justifiable reasons specified in the application under Section 5 of the Limitation Act, 1963. Thus, the learned District Judge rightly dismissed the application under Section 5 of the Limitation Act, 1963 as well. This Court does not find any error in the orders passed by the learned District Judge dismissing the application under Section 5 of the Limitation Act, 1963.

26. Accordingly, the present Civil Miscellaneous Appeal Nos.2109/2007 & 2110/2007, being bereft of merit, are hereby dismissed. The impugned awards dated 22.02.1996 passed by the learned Arbitrator in both claim cases, as well as the orders dated 09.09.2005 passed by the learned District Judge, Sri Ganganagar, are hereby upheld.

27. No order as to costs.

28. All pending applications, if any, also stand disposed of.

29. The records of the cases be sent back forthwith.

(SANDEEP SHAH),J

22-23-devrajP/-