

**IN THE HIGH COURT OF SINDH, KARACHI**  
**Revision Application No. 48 of 2015**

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Date Order with signature of Judge

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**Applicants:** Federation of Pakistan and others  
Through Mr. Khaleeq Ahmed, DAG  
along with Mr. Shafiq Ahmed,  
Assistant Attorney General.

**Respondent:** Shamsheer Ali Khan through his  
Legal Heirs.  
Through Ms. Fareeda Mangrio,  
Advocate.

**Date of hearing:** 16.10.2023  
**Date of Order:** 16.10.2023

**ORDER**

**Muhammad Junaid Ghaffar, J:** Through this Revision the Applicants have impugned Judgment dated 30.10.2007 passed by District Judge, Tharparkar, in Civil Appeal Nos. 14 & 17 of 2007; whereby, the Appeals have been allowed and the Judgment dated 10.05.2007 passed by Senior Civil Judge, Mithi in Suit No.57 of 2004, through which the Award of the Arbitrator in favour of the Applicant was made as Rule of the Court has been set aside.

2. Heard learned DAG as well as Respondent's Counsel and perused the record. It appears that the Respondent had filed F.C Suit No. 57 of 2004 before the Senior Civil Judge Mithi for recovery of Rs.1,15,00,000/-. The Applicants filed an application under Section 34 of the Arbitration Act, 1940, which was allowed vide order dated 25.05.2005 and matter was referred to Arbitration as agreed upon by the parties through Agreement. Thereafter learned Arbitrators decided the matter and passed their Award in favour of the Applicant, whereafter, an application was filed by the Applicant before the Senior Civil Judge for making the same as Rule of the Court. The said Court after hearing all the parties dismissed the pending Suit of the Respondent and allowed the application of Applicants by making the award as Rule of the Court. The Respondent being aggrieved impugned the said order in Appeal(s) and through impugned judgment, the order passed by the learned

Senior Civil Judge has been set aside and matter has been remanded with directions to decide the pending Suit of the Respondent on its own merits by recording evidence of the parties. It appears that the entire gist of the order passed by the Appellate Court is premised on the purported fact that Arbitration proceedings were not conducted properly inasmuch as no evidence was recorded; whereas, it has been further observed that Respondent was never given any proper opportunity of leading evidence. However, on perusal of the record, it appears that the Appellate Court has failed to appreciate the material available on record including the law on the subject and was completely misdirected in arriving at such a conclusion while passing the impugned judgment. Apparently such findings are bereft of any application of mind as the record reflects otherwise. Time and again the Arbitrators had taken up the matter and Respondent despite appearing on several occasions had failed to lead his evidence; whereas, diary sheets to that effect were duly signed by the Respondent and apparently there appears to be no dispute to that effect. Moreover, the Respondent's Counsel has also been confronted as to what objections were raised by the Respondent on the Award in question before the Senior Civil Judge; but no satisfactory response has come forward. Record reflects that a one-page objection was filed against the Award; wherein, it was stated that Arbitrator had misconducted in conducting the proceedings and has not recorded evidence of the parties. This was never supported by any material on record and a bald allegation was made which unfortunately has been accepted by the Appellate Court.

3. As noted hereinabove, time and again opportunity was granted which was not availed properly by the Respondent himself; and therefore, this objection could hardly be sustained. It is also a matter of fact that nothing has been placed on record as to the claim lodged by the Respondent and any material thereof including any Affidavit-in-evidence of his or any supporting witnesses; and therefore, no exception could have been drawn to the findings of the Senior Civil while making the Award as Rule of the Court. By mere making an allegation to the effect that no proper evidence has been

recorded would not *ipso facto* render the Award as illegal. It settled proposition of law<sup>1</sup> that a Court while hearing objections under the Arbitration Act, 1940, has a very limited jurisdiction, and normally no interference is to be made in an Award which has come before the Court after mutual agreement between the parties to decide their dispute(s) through Arbitration. It is also a settled proposition of law that a Court while hearing objections against an Award does not sit as a Court of appeal and cannot undertake reappraisal of evidence recorded by the Arbitrator and even if a different conclusion can be drawn from such evidence, it does not necessarily bind the Court to reach such different conclusion.

4. In view of hereinabove facts and circumstances of this case, this Civil Revision was allowed by means of a short order dated 16.10.2023 by setting aside Judgment of the Appellate Court dated 30.10.2007 passed in Civil Appeal Nos. 14 & 17 of 2007 and these are the reasons thereof.

**J U D G E**

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<sup>1</sup> PLD 2006 Lahore 534 (Premier Insurance Company and others v. Attock Textile Mills Limited), PLD 2011 SC 506 (Federation of Pakistan through Secretary, Ministry of Food, Islamabad and others vs. Messrs Joint Venture Kocks K.G/Rist) & 1999 YLR 1213 (Haji Abdul Hameed & Co. Vs. Insurance Company of North America)