

19

IN THE HIGH COURT OF DELHI

FAO (OS) 534/2001

DATE OF DECISION :-December 2,2003

DELHI VIDYUT BOARD

... Appellant
Through Mr.Jayant Nath with
B.C.Pandey, Advocate

versus

VICTOR CABLE INDUSTRY

.....Respondents
Through Ms.Sangeeta Jain,
Advocate

EFA (OS) 13/2001

DELHI VIDYUT BOARD

... Appellant
Through Mr.Jayant Nath with
B.C.Pandey, Advocate

versus

VICTOR CABLE INDUSTRY

.....Respondents
Through Ms.Sangeeta Jain,
Advocate

CORAM :-

- * HON'BLE MR.JUSTICE B.A.KHAN
- * HON'BLE MR.JUSTICE B.N.CHATURVEDI

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest ?

NOTES

The two appeals are filed by appellant-DVB against two

different orders dated 28.11.2001 and 9.11.2001. The first order allows respondents two applications (I.A.3034/1996 and 3515/1996) seeking condonation of delay and setting aside of the ex parte decree and for recalling the order of ex parte decree and allowing respondent to file objections to award dated 29.9.1993. The second order issues warrants of attachment to attach the bank account of appellant in Execution Petition no.200/2000 filed by respondent.

The first appeal arises in the following circumstances. Disputes arose between parties leading to the passing of award dated 29.9.1993 in favour of appellant. Respondent filed objections to this but mentioned the suit number wrongly as 35/1993 instead of 35/1994. As a result these objections were not taken in regard culminating in ex parte decree dated 12.1.1995 against respondent. After respondent came to know of this, it filed I.A. 3034/96 and 3515/1996 and sought condonation of delay and setting aside of the ex parte decree. Both these applications were considered and allowed by impugned order dated 28.11.2001 passed in suit no. 35/1994 and the objections filed by respondent were ordered to be taken on record. We are informed that these objections were under consideration of the learned Single Judge. We find nothing wrong in the impugned order because respondents' objections to the award were admittedly not considered at the time of making the award a rule of court which was due to a typographical error. The objections therefore warranted consideration and that is what is done by the impugned order. We find no scope to interfere and dismiss this appeal (FAO 534/2001) consequently.

As regards the other appeal (EFA (OS) 13/2001) which is directed against the warrants of attachment taken in Execution petition no.200/2000 for execution of the decree obtained by respondent for Rs.98 lacs with interest. We find that appellant's interests stand protected by the interim stay order passed by this court staying the operation of these warrants. This appeal can, therefore, be conveniently

27

disposed of by providing that impugned warrants of attachment shall not take effect till respondent's objections in suit no.35/1994 are decided and one month thereafter. Should respondent's objections fail resulting in decree to be passed against the respondent, it shall be open to appellant to seek adjustment of the Award amount in suit no.35/1994 in respondent's execution proceedings no.200/2000 and to satisfy the respondent's decree for the remaining amount failing which warrant of attachment shall revive to the extent of the amount and the execution proceedings shall proceed under law. The second appeal is also accordingly disposed of.

At this stage it was pointed out by respondents' counsel that this court by order dated 18.12.2001 passed in FAO (OS) 534/2001 had required BIFR not to insist on respondent depositing Rs.50 lacs or so in view of the pendency of respondent's objections against award dated 29.9.1993 in suit no.35/1994 before this court. This direction shall continue to remain in force till 31.1.2004 by which time respondent is expected to obtain orders on its objections against the award. Should there be any delay in disposing of these objections respondent can approach the court by an appropriate remedy and seek requisite orders.

B.A KHAN, J.

B.N.CHATURVEDI, J.

December 2, 2003.
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