

**HIGH COURT OF JAMMU AND KASHMIR AT
JAMMU**

**A.A. No. 18/2010
CMP No. 13/2010**

Date of Decision:16.09.2010		
Surinder Kumar Sharma	Vs.	Union of India & ors.
Coram:		
Mr. Justice J.P.Singh, Judge.		
Appearing Counsel:		
For the Petitioner(s)	: Mr. R.K.Bhatia, Advocate.	
For the Respondent(s)	: Mr. S.S.Chib, CGSC.	
i)	Whether approved for reporting in Press/Journal/Media	: Yes
ii)	Whether to be reported in Digest/Journal	: Yes

Disputes pertaining to the “Contract for supply of Meat dressed at Narian” sanctioned vide CD No. 29 of 1973-74, for the period commencing from 03.05.1973 to 31st March, 1974, were referred to the Arbitration of Major General A.M.Sethna, General Officer Commanding, 25 Inf. Division. His Award was, however, set aside by this Court on March 11, 1987.

During the pendency of the Appeal preferred against the order setting aside the Award, the Contractor died.

Union of India’s Appeal against the order setting aside of the Award, was disposed of issuing directions for appointment of a new Arbitrator.

The Award made by the Arbitrator appointed pursuant to the directions of the Court, was again set aside by the Court allowing the Contractor’s Son’s application under Section 30/33

of the Jammu and Kashmir Arbitration Act, 2002, referring the matter back to the Arbitrator.

In terms of the judgment dated 03.05.2010 of the Court, the Arbitrator is *inter alia* required to decide the extent of the property of the deceased Contractor that had come to the hands of his legal representatives, while determining the dispute.

The petitioner, who is the son of the original Contractor has filed his Petition under Section 19 of the Jammu and Kashmir Arbitration Act, seeking supersession of the reference on the ground that the dispute being old and the Award thereon having been set aside twice, the reference needs to be superseded as the controversy as to the liability of the petitioner required its decision by a Civil Court rather than the Arbitrator.

I have considered the submissions of learned counsel for the parties at the Motion hearing stage and am of the opinion that in terms of the order passed by the learned Single Judge of the Court determining the petitioner's application under Section 30/33 of the Arbitration Act, the plea, on which the petitioner seeks supersession of the reference, has been left to be determined by the Arbitrator to whom the matter stands referred afresh.

In this view of the matter, the plea of the petitioner, that

the reference stood superseded because the Award had been set aside twice and the dispute was old, cannot be entertained for fresh adjudication, for it stands impliedly determined against the petitioner, with the reference of the disputes to the Arbitrator, who is, *inter alia*, required to decide the petitioner's liability, if any, as well.

The respondents' learned counsel is thus right in saying that the petitioner's application was not maintainable.

This application is, accordingly, dismissed as non-maintainable.

(J. P. SINGH)
JUDGE

JAMMU
16.09.2010
Pawan Chopra