

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAI PUR BENCH, JAI PUR.

JUDGMENT

S. B. Civil Misc. Appeal No. 640/2009
(Rajesh Sharma Vs. Hariish Khandelwal and ors.)

DATE OF JUDGMENT : 30.01.2015

HON'BLE MR. JUSTICE MAHESH CHANDRA SHARMA

Mr. KN Tiwari, for appellant.
Mr. Rakesh Bhargava, for respondent-Ins. Comp. .

Heard learned counsel for the parties and after hearing both the parties, this appeal is being disposed of at this stage.

Brief facts of the case are that this appeal has been filed against the impugned judgment and award dated 9.8.2008 passed by the Judge, MACT, Jai pur city, Jai pur..

At the very outset, learned counsel for the appellant/s submits that the learned Tribunal while passing the impugned award has not taken into consideration the objections which he has raised by way of aforesaid appeal. The finding of learned Tribunal on issue no. 2 to 6 is contrary to the material available on record. Thus, the impugned award passed by the learned Tribunal qua issue no. 2 to 6 be quashed and set aside and the matter be remanded to the learned Tribunal with the direction to decide the matter afresh in the light of objections which he has raised by way of aforesaid appeal .

E Converso, the learned counsel for the respondent/s defended the impugned award and stated the same to be just and apposite.

I have heard learned counsel for the parties and carefully perused the relevant material on record including the impugned award.

In my considered view, the learned Tribunal while passing the impugned award has not gone through the facts of the case and passed the impugned award surreptitiously. Thus, the impugned award passed by the learned Tribunal needs interference by this court.

In the result, the appeal is partly allowed and the impugned judgment and award passed by learned Tribunal qua issue no. 2 to 6 is quashed and set aside with the direction to the learned Tribunal to decide the matter afresh as early as possible, qua issue no. 2 to 6 in the light of grounds raised by the learned counsel for the appellants in the aforesaid appeals and the aforesaid judgment, if applicable and other judgments to be cited by learned counsel for the parties, if any, after issuing notice to all the concerned parties and giving opportunity of hearing to them.

Both the parties are directed to appear before the learned Tribunal on 8.9.2015.

(MAHESH CHANDRA SHARMA)J.

Sandeep/-164

All corrections made in the judgment/order have been incorporated in the judgment/order being e-mailed. SANDEEP RAWAT,Sr.P.A.