Delhi High Court Imposes Penalty For Delay Tactics And Baseless Allegations In Arbitral Proceedings

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Introduction

In the case of ***Dalmia Family Office Trust v. Getamber Anand***[1], the Delhi High Court dealt with a significant issue concerning delay tactics and the misuse of procedural mechanisms in arbitration. The judgment is a cautionary tale for litigants attempting to derail arbitral proceedings through unfounded allegations against arbitrators. The High Court's decision highlights the importance of fairness and decorum in arbitration, reaffirming that any unwarranted misconduct will attract strict penalties, including financial sanctions.

Facts

The genesis of the dispute lies in substantial investments made by the Dalmia Family Office Trust ("**the Dalmia Group**") in the ATS Group, a real estate enterprise led by Mr. Getamber Anand. Between 2013 and 2015, the Dalmia Group invested large sums into several ventures of the ATS Group under various agreements. The relationship between the parties began to sour when the ATS Group allegedly failed to meet its financial commitments.

To resolve their financial disputes, the parties entered into a Supplementary Agreement in 2019. Under this agreement, the ATS Group acknowledged its liability towards the Dalmia Group and agreed to repay the outstanding amounts by March 2020. However, the ATS Group failed to honour its commitment, leading the Dalmia Group to initiate arbitration proceedings for recovery of the unpaid amounts.

The arbitration commenced in early 2021, and a sole arbitrator, a retired judge, was appointed with mutual consent. However, the proceedings soon encountered difficulties when the ATS Group challenged the arbitrator's impartiality, alleging that there were conflicts of interest which had not been disclosed.

Allegations of Bias and Conflict of Interest

The dispute escalated when the ATS Group, during the arbitration proceedings sought to rely upon a legal notice dated June 8, 2021, claiming that the arbitrator had a conflict of interest. This allegation was introduced on behalf of a third-party homebuyer, supposedly impacted by the arbitration. The notice alleged that the arbitrator, or members of his family, had prior associations with the ATS Group, which cast doubt on the arbitrator's impartiality.

Interestingly, this notice was raised only after the arbitration had reached an advanced stage and the proceedings were close to completion. The ATS Group invoked Sections 12 and 13 of the Arbitration and Conciliation Act, 1996 ("**the Act**"), seeking the arbitrator's recusal. Section 12 of the Act mandates that an arbitrator must disclose any circumstances that may give rise to justifiable doubts regarding his or her independence or impartiality. Section 13, in turn, outlines the procedure for challenging the arbitrator's appointment on such grounds.

[1] *Dalmia Family Office Trust v. Getamber Anand*, 2024: DHC: 7895-DB.

Findings of the Arbitral Tribunal

The arbitrator dismissed the recusal application, observing that no substantive evidence had been presented to support the claims of bias. The arbitrator remarked that the allegations seemed contrived, aimed at derailing the proceedings rather than addressing genuine concerns. It was pointed out that the legal notice appeared to have been orchestrated by the ATS Group in a calculated attempt to delay the arbitration and avoid an unfavourable award.

Crucially, the tribunal noted that if any party should have raised concerns about bias, it would have been the Dalmia Group, given the alleged prior associations of the arbitrator with the ATS Group. Yet, no such concerns were raised by the Dalmia Group. The tribunal found that the ATS Group's argument essentially asserting a conflict of interest that theoretically benefited its opponent was illogical and without merit.

After having arrived at the above conclusions, the arbitrator dismissed all applications under Sections 12 and 13 under the Act and invoked Section 27(5) of the Act for initiating criminal contempt against the respondents.

High Court's Findings

The High Court's scrutiny of the case centred on the conduct of the ATS Group throughout the arbitration process. The High Court observed that the challenge to the arbitrator's impartiality was not only unfounded but was also timed to frustrate the arbitration. The Court emphasised that baseless allegations of bias cannot be used as a strategy to delay proceedings, particularly when such claims are raised at a late stage without evidence.

The High Court was also critical of the manner in which the ATS Group attempted to introduce the legal notice. It found that the notice, which was purportedly issued on behalf of a third party, had no real relevance to the arbitration. The High Court concluded that this action was designed to muddy the waters and confuse the tribunal, further delaying the arbitration process.

The Delhi High Court imposed a fine of INR 10,00,000 on Mr. Getamber Anand, the head of the ATS Group, to be paid to a charitable organization chosen by the arbitrator. The High Court found Mr. Anand's conduct inexcusable, particularly his role in orchestrating the delay tactics and unfounded allegations. While Mr. Anand tendered an apology, the Court found it insufficient, noting that the apology came too late and appeared insincere.

In addition to the fine, the Court directed Mr. Anand to pay INR 3,00,000 to the Dalmia Group as compensation for the costs incurred in the proceedings.

Legal Framework and Broader Implications

The Court's decision hinged on the correct application of Sections 12 and 13 of the Act. Section 12 places a continuing obligation on arbitrators to disclose any circumstances that may give rise to justifiable doubts about their impartiality. However, the High Court clarified that this provision cannot be misused by parties as a means of tactical delay. The allegations raised by the ATS Group, particularly through a third-party legal notice, were described by the High Court as contrived and irrelevant. In its reasoning, the High Court reinforced the principle that challenges to arbitrators must be made in good faith, with credible evidence.

Comment

The judgment is a clear warning to litigants that attempts to delay arbitration through unfounded claims will not be tolerated. The High Court's decision to impose fines in the matter serves as a deterrent against the misuse of procedural safeguards in arbitration. The ruling also highlights the importance of maintaining the integrity of the arbitral process, ensuring that arbitrations proceed smoothly without undue interference or manipulation.

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