

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **OMP No. 16/2007**

#M/s Lapinus Rockwool Pvt. Ltd.

..... Petitioner

! Through: Mr. Ratan Kumar Singh, Advocate

Versus

\$M.R.F. Limited

.....Respondent

^ Through: Mr. C.M. Oberoi with Ms.Surekha,
Advocates

CORAM:-

* **HON'BLE MR. JUSTICE S.N. AGGARWAL**

1. Whether reporters of Local paper 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?

S.N.AGGARWAL, J (ORAL)

The petitioner has filed this petition against the respondent seeking to challenge the arbitral award dated 24.08.2005 under Section 34 of the Arbitration and Conciliation Act, 1996.

A panel of three Arbitrators comprising Hon'ble Mr. Justice

S.S. Chadha and Hon'ble Mr. Justice J.K. Mehra, former judges of this Court and Mr. P.B. Menon, Sr. Advocate had passed an award against the petitioner on 24.08.2005 in the sum of Rs. 16 lacs with interest @ 9% per annum till realization.

The objections against the arbitral award were filed by the petitioner on 08.01.2007. The petitioner has alleged that he had received the copy of the award for the first time on 11.12.2006 through a communication dated 08.12.2006 sent by M/s Punj Sons Pvt. Ltd. Mr. Oberoi, the learned counsel for the respondent has raised a preliminary objection to the maintainability of the present petition. He has argued that the petition is hopelessly barred by limitation and according to him the letter dated 11.12.2006 purported to have been received by the petitioner from M/s Punj Sons Pvt. Ltd. is a fabricated document and was fabricated by the petitioner to cook up a false story of having received the arbitral award on 11.12.006 to bring his objection within limitation. Mr. Oberoi, has contended that the copy of the arbitral award dated 24.08.2005 was sent to the petitioner not only by the Arbitrators but also by the respondent immediately after the award was

pronounced on 24.08.2005. The respondent had sent a notice to the petitioner on 06.09.2005 by registered A.D. Post and had annexed the copy of the arbitral award dated 24.08.2005 along with the said notice. This notice sent by the respondent to the petitioner was addressed at its last known address of Kalkaji Industrial Area, Kalkaji, New Delhi. The respondent has filed A.D. card along with its reply to show service of notice dated 06.09.2005 upon the petitioner. A perusal of the notice dated 06.09.2005 filed by the respondent along with its reply would clearly show that the copy of the arbitral award was sent by the respondent to the petitioner way back in September, 2005. In order to bring the present objection petition within limitation, the petitioner seeks to rely upon a communication dated 08.12.2006 purported to have been received by the petitioner from M/s Punj Sons Pvt. Ltd. on 11.12.2006. The contents of the said communication are extracted below:-

*"Ref : PSPL/2006-07
Date; Friday, December 8, 2006.*

*To, Shri R.P. Punj, Director
Lapinus Rockwool Private Limited,*

*Kalkaji Industrial Area,
Kalkaji, New Delhi-110019*

Dear Sir,

*While going through old records in the office of the Company, we found an Arbitration award in the matter of MRF Vs Lapinus Rockwool Private Limited. On contacting office of Lapinus at New Delhi, we were informed by Mr. Deep Chand that this matter relates to you. Hence, we are sending you the documents found in the office.
Kindly acknowledge the receipt,*

Thanking you,

Yours faithfully,

for Punj Sons Pvt. Ltd.

Authorized Signatory"

Mr. Singh, the learned counsel appearing on behalf of the petitioner has argued that M/s Punj Sons Pvt. Ltd. and Company Ms. Lapinus Rockwool Pvt. Ltd are mainly owned by two real brothers M/s V.P. Punj and Mr. R.P. Punj. According to Mr. Singh there were disputes and differences amongst the two brothers. On account of their disputes and differences, the officials of M/s Punj Sons Pvt. Ltd. were obstructing the ingress and egress of the people belonging to the company of the petitioner and for

that reason, the petitioner had to file a suit for permanent injunction against M/s Punj Sons Pvt. Ltd. in 1991 much prior to the passing of the arbitral award which was passed in 2005. Mr. Singh has contended that on account of disputes amongst the brothers, the copy of the arbitral award sent by the Arbitrators was not received in the office of the petitioner company. According to the petitioner, the copy of the arbitral award was received by the petitioner when it was sent by an authorized signatory of M/s Punj Sons Pvt. Ltd. vide communication dated 08.12.2006 after the demise of Mr. V.P. Punj who expired on 08.10.2006. The submissions in regard to the communication dated 08.12.2006 made on behalf of the petitioner do not inspire confidence of this Court. It is difficult to believe that officials of M/s Punj Sons Pvt. Ltd. would send the copy of the award to the petitioner after the demise of Mr. V.P. Punj, the then Chairman of the said company. It is not disputed that copy of the arbitral award sent by the Arbitrators as well as by the respondent immediately after pronouncement of the award on 24.08.2005 were sent at the correct address of the petitioner. The copy of the award sent to the petitioner by the

Arbitrators was not returned back undelivered. Rather copy of that award has been filed by the petitioner itself along with its objection petition. It cannot be believed that copy of the award sent by the Arbitrators at the correct address of the petitioner's company could have been delivered at the premises of another company i.e. M/s Punj Sons Pvt. Ltd., though at the relevant time both the companies were operating from the same premises. Under the circumstances, this Court is convinced that the petitioner had received the copy of the arbitral award dated 24.08.2005 on or around September, 2005.

Section 34 (3) of the Arbitration and Conciliation Act, 1996 prescribes a period of three months for filing of objections against the arbitral award and this period of three months is to be reckoned from the date of receipt of the arbitral award by the party who seeks to challenge the award. Proviso to Section 34 (3) gives a discretion to the Court to permit a party to file objections within 30 days beyond three months time prescribed for filing of objections on showing of sufficient cause for not filing the objections within the said time period of three months. There are any number of judgments, both of Hon'ble

Supreme Court and also of this Court laying down the law that the Court has no power to entertain the objections against the arbitral award after expiry of four months time from the date of receipt of award by the party seeking to challenge such award. Reference is made to a Judgment of the Hon'ble Supreme Court in ***UOI Vs. Popular Construction Co. (2001) 8 SCC 470.***

The present objection petition has been filed by the petitioner much after expiry of four months' time prescribed under Section 34 (3) of the Arbitration and Conciliation Act, 1996 for filing of the objections against the arbitral award. Hence this petition is hereby dismissed as barred by limitation leaving the parties to bear their own costs.

January 11, 2008
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S.N.AGGARWAL
[JUDGE]