

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No. 239 of 1990 (O&M)

Date of decision: 12.08.2015

Food Corporation of India

... Petitioner

versus

M/s Ram Sahai Aggarwal

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. H.S. Dhandi, Advocate for the petitioner.
Mr. Jaswant Jain, Advocate for the respondent.

K.Kannan, J.

The revision is on a challenge brought against the order of Civil Court declining to make the award the Rule of Court. The award of the Arbitrator was in a reference to assess the claim made by the petitioner that the contractor by failing to execute the work entrusted to him had involved the Corporation with loss in having to entrust the same with yet another person which was at a higher rate. The original award of contract was for transportation of certain goods through a tender process at the rates quoted by the contractor which was accepted through telegram dated 12.02.1977. On 13.02.1977, the contractor had expressed his difficulty to carry out the work. The breach of contract, therefore, arose on 13.02.1977.

As per the tender conditions, the Corporation was entitled to award the contract to yet another person by taking the decision as operative and claimed the loss and damages against the contractor. The

assessment of such loss would have been made on the date of entrustment of the same work to some other contractor and the cause of action would arise from that date.

I do not have a copy of the award since the original papers have been burnt. Papers have been reconstructed with the help of the counsel by reference to the Civil Court judgments. Presently, the counsel for petitioner supplies to the Court a copy of the award which assesses the claim of the Corporation where the Arbitrator has assessed the liability of the contractor at Rs. 52,906 for one work and Rs. 32,182/- in respect of another. If the contract had been rescinded by the contractor through a notice on 13.2.1977 which the Corporation found as not in breach of the terms enabling the Corporation to entrust the work to another contractor. The entrustment of the work to such person and the differential rates alone would provide the basis for the damages. I have seen through the award and all that I can see is that the Corporation has made a claim for the amounts for which the award was passed and does not state anywhere that when the cause of action arose. I find there is a specific defence taken in the objection filed to the claim statement by the Corporation that the claim was barred by limitation. Both the Civil Courts dealt with it. When the contractor was declining to honour the terms through a letter issued on 13.02.1977 and after the Corporation was treating it as a breach, the 3 year period would start from the said date on 13.02.1977. The extension would have been possible if the Corporation had disclosed any other subsequent date as the date when the entrustment of the same works had been made and when it had knowledge of the extent of loss that had been occasioned,

which would provide an additional cause of action and provide for a further period of 3 years. That information is bound to be supplied by the Corporation itself in its claim petition and if it was not set out and if the Court found that claim was barred by limitation, it was justified in saying so. Even in the grounds of revision, no details are given about the Corporation when the work was entrusted and when the assessment of damages was possible of being made by the Corporation to justify its claim for a reference to Arbitrator.

With no better details disclosed, even after the decision of the Courts below, I do not think there is any error in the orders of the Court below for intervention.

The revision petition is dismissed with above observations.

(K.KANNAN)
JUDGE

12.08.2015

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