

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

CR No.5997 of 2015.

Date of Decision: 14.09.2015.

Haryana Olympic Association

....Petitioner.

VERSUS

M/s Om Parkash and Company Lottery Agent and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. P.S. Poonia, Advocate for the petitioner.

SNEH PRASHAR, J.

By way of this revision petition, order dated 14.07.2015 passed by learned Civil Judge (Senior Division), Panchkula dismissing the application for restoration of an application under Section 20 of the Arbitration Act 1940, filed by the petitioner in 1994, has been assailed.

The facts that emerge from the pleadings of the petitioner are that a petition seeking to make the award dated 29.04.1994 as Rule of the Court was filed by the petitioner in May, 1994 which was dismissed under Order 9 Rule 8 of the Code of Civil Procedure (for short, “the Code”) by

learned Civil Judge (Senior Division), Panchkula vide order dated 21.08.1998. After a lapse of almost 15 years, an application seeking restoration of the petition was filed by the petitioner on 14.03.2013. On notice of this application, respondent No.1 appeared and contested the same. Considering the submissions made on behalf of the petitioner as well as the respondent, learned trial Court dismissed the application vide the impugned order dated 14.07.2015.

Feeling aggrieved by the aforesaid order, the petitioner preferred the instant civil revision.

The submissions made by Mr. P.S. Poonia, learned counsel representing the petitioner have been considered.

Learned counsel for the petitioner submitted that the petition under the Arbitration Act 1940, filed by the petitioner in May, 1994 was fixed for 06.06.1995, but it was taken up by the Court on its own on 19.05.1995 and was adjourned to 07.10.1995. Thereafter, without issuing any notice to the petitioner, the petition was dismissed under Order 9 Rule 8 of the Code vide order dated 21.08.1998. Since the petitioner had no notice of the date of hearing in the petition, it could not be represented either by its president or by its counsel. Learned counsel further asserted that ever since the petitioner had lost track of the petition, its president had been changing frequently. Also, the office premises of the association were shifted and during that process the file lost sight and the petition could not be followed. When dismissal of the petition came to the notice of the present President, he filed application for restoration of the petition without any further loss of

time. In the said circumstances, learned counsel contended that the petition be restored at its original number and an opportunity be given to the petitioner to prosecute the same.

There appears no merit in the argument of learned counsel for the petitioner. It was for the petitioner association to keep track of the petition filed by it. There is absolutely no justified explanation for its slumber for almost 15 years after the petition was dismissed under Order 9 Rule 8 of the Code. The explanation given that the President of the petitioner association kept changing frequently or that its premises were shifted from one place to the other, by no stretch of imagination can be acceptable for condoning such long delay in filing the application for restoration of the petition. Moreso, as noticed by learned trial Court in the impugned order no application seeking condonation of delay of more than 15 years in filing the petition was filed by the petitioner association alongwith the application for restoration of the petition at its original number.

Further, the contention of the petitioner is that the petition which was fixed for 06.06.1995 was taken up by the Court on 19.05.1995 and was adjourned to 07.10.1995 and without notice to the petitioner, it was dismissed on 21.08.1998. The petitioner itself has quoted the order of learned trial Court dated 21.08.1998 vide which the petition was dismissed under Order 9 Rule 8 of the Code. It was mentioned in the order that a court notice was issued to the petitioner association which was received back with the report that no firm in the name of Haryana Olympic Association is

existing at the given address. i.e. House No.977, Sector-9, Panchkula. Finding that no one was coming forward to pursue the petition, it was dismissed.

The above order reflects that notice was given by the Court to the petitioner association but it was not in existence at the given address. Notice could be given by the Court to the petitioner association only at the address which was mentioned in the petition. It has been pleaded by the petitioner itself that it had changed its office from one place to another and admittedly the petitioner did not make any effort to place on file the changed address of the office of the petitioner association. With the said facts in the backdrop, it does not lie in the mouth of the petitioner to say that its petition was dismissed without issuing notice to it.

Thus, the application for restoration filed by the petitioner emanating no justified reason being inherently barred by limitation was rightly dismissed by learned trial Court. There being no illegality or perversity in the impugned order calling for intervention, the instant revision petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

14.09.2015.
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