

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

CWP No. 18215 of 2012 (O&M)
Date of decision: February 9, 2015

M/s Guru Dasmesh Rice Mills and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Nakul Sharma, Advocate,
for the petitioners.

Mr. Ranbir Singh Pathania, DAG, Punjab,
for respondent No.1.

Mr. Anil Sharma, Advocate,
for respondents No. 2 and 3.

K. KANNAN, J. (Oral)

1. The writ petition challenges the order passed by the Managing Director dated 25.7.2012 (Annexure P/6) allowing for the claim statement to be brought by the respondent-Corporation in arbitral proceedings. The matter had been dealt with by a different arbitrator initially and an award was passed which was subject to challenge under proceedings Section 34 of the Arbitration and Conciliation Act in Arbitration Case No. 49/2005. The District Judge set aside the award holding that the arbitrator did not have the competence and the matter has to be adjudged only before the Managing Director who alone was competent to render an adjudication on the dispute.

2. When the Managing Director entered reference and took up the

matter for consideration, the respondent-Corporation moved an application under Section 14 of the Limitation Act to receive the claim statement contending that the time spent before the District Court must be excluded. The Managing Director accepted the application and received the claim statement. The petitioners, who contest the claim of the Corporation, is before this court contending inter-alia (i) the order passed by the Managing Director is without reason as it is bound to contain reasons in the light of the law laid down by the Supreme Court in Kranti Associates Pvt. Ltd. And another Versus Sh. Masood Ahmed Khan nand others 2010 (9) SCC 496; and (ii) the proceedings under Section 14 of the Limitation Act itself is not competent, for, even when the District Court was not the forum before which the Corporation had already lodged the claim petition, the issue of exclusion of time did not arise.

3. When the matter was before the Managing Director, after the direction of the District Judge on setting aside the award, it must be taken that it was a fresh reference since as per the decision of the District Court, the arbitrator, who had already passed the award, was incompetent to decide the case. There could not have been a claim statement before an incompetent forum nor before the District Court where the proceedings were pending for setting aside the award. There was no need for even invoking the provision of Section 14 of the Limitation Act for filing a claim petition. When the case was to be taken as a fresh reference, in the manner I have already held, the arbitrator always had the power to receive a claim statement from either parties and put the other side to notice of the same in order to frame the appropriate issues for consideration. This did not require any reasoned decision and receipt of such claim petition itself would be

competent with opportunity to be given to opposite parties to file the reply and seek for adjudication on all the matters that are raised and brought through the respective claims. I find no scope for intervention in a situation where the petitioners will have appropriate time and opportunity to give their objections and seek for adjudication in accordance with law. The impugned order is sustained although for different reasons than what were set forth in the petition before Managing Director.

4. The writ petition is dismissed with the above observation.

February 9, 2015
prem

(K.KANNAN)
JUDGE