

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

F.A.O.No.6385 of 2011 (O&M)
Date of Decision: August 24, 2015

Tribhuvan Kumar Jain & another

...Appellants

Versus

Heera Lal Sharma & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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.Shiv Kumar, Advocate,
for the appellants.**

**Mr.John Kumar, Advocate,
for respondent Nos.1 to 3.**

AMIT RAWAL, J. (Oral)

The challenge in the present appeal is to the order dated 25.8.2011 passed by the Additional District Judge, Faridabad and as well as the award dated 27.4.2009, whereby the objections filed on behalf of the appellants have been dismissed being barred by time.

Mr.Shiv Kumar, learned counsel appearing on behalf of the appellants submits Shri D.P.Gautam, Advocate has served a legal notice on behalf of his clients vide Annexure P/2 and thereafter was appointed as an arbitrator. He was assigned the role of arbitrator and rendered the award *ex-parte* as the appellants did not receive the copy of the notice of the arbitration proceedings. The appellants acquired the knowledge of the

arbitration proceedings only after filing of the execution, which was transferred to the competent court at Ludhiana being the work place of the appellants. Accordingly, the objections were filed, which had been dismissed being time barred. He also submits that copy of the award was never supplied by the arbitrator as per the provisions of the Act and Mr.D.P.Gautam should not have acted as an arbitrator once he had acted as a lawyer/advocate on behalf of the respondent-claimants.

Mr.John Kumar, learned counsel appearing on behalf of respondent Nos.1 to 3 submits that the objections of the appellants were barred by time and, therefore, the provisions of Limitation Act are not available. The objections could be filed within 90 days and within another 30 days by moving an application.

I have heard the learned counsel for the parties and appraised the paper book.

It is now settled law that no one can be judge of his own cause. Once Mr.D.P.Gautam Advocate has sent a legal notice on behalf of the respondents, he ought not to have assumed the role of arbitrator. It is a matter of record that notice of the arbitration proceedings was not received by the appellants. They acquired the knowledge only when the execution was transferred to Ludhiana, i.e., the place of work of the appellants and thereafter the objections were filed with promptitude. In my view, the Lower Court has escaped the notice of the factum that the arbitrator had already acted as an Advocate on behalf of the respondents. The manner and mode in which the objections have been dismissed are not sustainable.

The award, in my view, is vitiated in law as the possibility of

the biasness cannot be ruled out.

In view of what has been observed above, the award dated 27.4.2009 and the order dated 25.8.2011 are hereby set-aside. The parties are free to seek the reference of dispute by an independent arbitrator in accordance with law.

The appeal is accordingly allowed.

August 24, 2015
ramesh

(AMIT RAWAL)
JUDGE