

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

F.A.O.No.6489 of 2011 (O&M)

Date of Decision: September 17, 2015

Smt.Shobha Rani

...Appellant

Versus

M/s Shareen Hire Purchase Private Limited & another

...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.H.K.Sharma, Advocate,
for the appellant.**

**Ms.Anju Bansal, Advocate,
for Mr.Mandeep S. Sachdev, Advocate,
for respondent No.1.**

AMIT RAWAL, J. (Oral)

The challenge in the present appeal is to the impugned order dated 5.8.2011 passed by the Additional District Judge, Jalandhar, whereby the objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "1996 Act") filed against the award dated 17.9.2009, have been dismissed on the ground that they were barred by limitation.

Mr.H.K.Sharma, learned counsel appearing on behalf of the appellant submits that though as per the provisions of Section 31(5) of the 1996 Act, copy of the award has to be given to the effected party and in case

the effected party is not represented or *ex-parte*, then the same was required to be sent by registered post. However, in the award, there is no mention about the mode and means of sending the copy of the award to the effected party and, therefore, the objections cannot be said to be barred by limitation as the claimant acquired the knowledge of the award only when she received the copy of the execution application and on receipt of the same, filed the objections under Section 34 of 1996 Act within the period of limitation.

Ms.Anju Bansal Advocate for Mr.Mandeep S. Sachdev, Advocate, appearing for respondent No.1 submits that Shobha Rani appellant had appeared before the arbitrator and thereafter absented. The arbitrator proceeded to decide the matter *ex-parte*, therefore, no useful purpose would be served by remanding the matter back to the objecting court for deciding the objections afresh as it would be a total farcical exercise.

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

The award of the arbitrator does not reveal about the mode and means of sending copy of the award and, thus, there is a blatant violation of the provisions of Section 31(5) of 1996 Act. The plea that the claimant had acquired the knowledge of the award only when they received copy of the execution application appears to be justified as the award lacks the compliance of the aforementioned provisions of the Act.

In my view, the Additional District Judge has not considered the aforementioned provisions of the Statute and as well as copy of the

award, whereby the arbitrator has failed to observe the mode and means of the communication of his decision to the effected party.

In view of what has been observed above, the impugned order is set-aside and the matter is remitted back to the objecting court to decide the objections afresh in accordance with law.

It is expected that the objecting Court may decide the objections as expeditiously as possible, preferably within a period of six months from the date of receipt of certified copy of the order.

The records be sent back to the Courts concerned forthwith.

The parties, through their counsel, are directed to appear before the Additional District Judge, Jalandhar on 12.10.2015, who may hear the objections or assign the same to some other competent Court.

The appeal is accordingly disposed of.

September 17, 2015
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(AMIT RAWAL)
JUDGE