

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

FAO No.2599 of 2012 (O&M)
Date of decision : 20.08.2015

Jagdeep Singh and another

...Appellants

Versus

Punjab State Civil Supplies Corporation Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Ashok Singla, Advocate for the appellants.

Ms. Deepali Puri, Advocate for the respondent No.1.

AMIT RAWAL, J. (Oral)

Challenge in the present appeal is to the impugned judgment dated 04.10.2011, whereby objections filed by the appellants against the arbitration award dated 29.03.2006 have been dismissed, on the ground, that same was not within limitation.

Mr. Ashok Singla, learned counsel appearing on behalf of appellants submits that the arbitration award was ex parte as members of the Samiti were having no knowledge of the arbitration proceedings and they came to know about the passing of arbitration award only in April, 2008 and

accordingly objections were filed on 16.07.2008, therefore, objections cannot be said to be beyond limitation, thus, the Lower Appellate Court has committed illegality and perversity in not accepting such contentions as reflected in objection petition.

He further submits that copy of the award has also not been served on each member of the Samiti in accordance with law under Section 8 of the Societies Registration Act, 1860 (hereinafter to be referred as '1860 Act') and thus, impugned judgment dated 04.10.2011 is liable to be set aside, much less, the award and the appellant should be given chance to contest the claims of the respondents.

Ms. Deepali Puri, learned counsel appearing on behalf of PUNSUP submits that Samiti was represented by an advocate, before the Arbitrator, who filed the written statement and, thereafter remained absentee. The Arbitrator had no choice, but to pass the award. Even the jurisdiction of the Arbitrator was challenged which was also declined. The copy of the award was sent by registered post to the Samiti (Miller) and the same was received by authorized person of the Samiti (Miller) on 19.04.2006 and the story projected that few members received the copy of the award in the last week of April, 2008 is nothing but a cock & bull story, afterthought.

There is no illegality and perversity in the order and interference is thus not warranted.

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

The objections have been filed only by few members of the

Samiti which is admittedly the Miller. It is a matter of record that Samiti (Miller) was represented before the Arbitrator through counsel and thereafter he did not lead evidence despite having submitted written statement, much less, challenged the jurisdiction of the Arbitration but no reasons have assigned for his absence. Thus, it cannot be said that Miller had no knowledge of the arbitration proceedings.

Sending of the copy of the award by registered post has been held to be presumed service as per Section 27 of the General Clauses Act. The award sent by registered post was received by the authorized person of the Samiti on 19.04.2006. No explanation has come forth for explaining the delay from April 2006 to April 2008. As regards the applicability of Section 8 of the 1860 Act, on plain reading of the provisions, it prescribes that the name of the members have to be specifically provided in the application against whom award is said to be enforced.

It would be apt to reproduce Section 8 of the 1860 Act, which reads thus:-

“8. Enforcement of judgment against Society – If a judgment shall be recovered against the person or officer named on behalf of the society, such judgment shall not be put in force against the property, movable or immoveable, or against the body of such person or officer, but against the property of the society.

The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the society only, and shall require to have the judgment enforced against the property of the society.”

The Samiti is body of persons but the fact remains that it is a Miller. Once the Samiti has its office and the copy of the award has been received in office, it cannot be accepted that other members did not have the knowledge of the arbitration proceedings particularly when they filed the written arguments. The objections filed in July 2008, thus, rightly have been on account of delay.

There is no illegality, much less, perversity in the judgment rendered by the Court below. Objections would be hopefully barred by limitation.

No ground is made out for interference.

The appeal is accordingly dismissed.

20.08.2015

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**(AMIT RAWAL)
JUDGE**