

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

1. FAO No.5340 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

2. FAO No.5341 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

3. FAO No.5342 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

4. FAO No.5343 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

...Appellants

Reliance Capital Ltd. & anr.

...Respondents

FAO No.5542 of 2013 (O&M)
Date of decision : 04.09.2015

...Appellants

Reliance Capital Ltd. & anr.

...Respondents

FAO No.5543 of 2013 (O&M)
Date of decision : 04.09.2015

...Appellants

Reliance Capital Ltd. & anr.

...Respondents

FAO No.5544 of 2013 (O&M)
Date of decision : 04.09.2015

...Appellants

Reliance Capital Ltd. & anr.

...Respondents

12.

FAO No.5545 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

13.

FAO No.5546 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

14.

FAO No.5547 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

15.

FAO No.5548 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

-6-

Versus

Reliance Capital Ltd. & anr.

...Respondents

20.

FAO No.5553 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

21.

FAO No.5554 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

22.

FAO No.5555 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

23.

FAO No.5556 of 2013 (O&M)

Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

24.

FAO No.5557 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

25.

FAO No.5558 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

26.

FAO No.5559 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

27.

FAO No.5682 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

28.

FAO No.5683 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

29.

FAO No.5684 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

30.

FAO No.5685 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

35.

FAO No.5690 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

36.

FAO No.5691 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

37.

FAO No.5692 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

38.

FAO No.5693 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

39.

FAO No.5694 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

40.

FAO No.5695 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

41.

FAO No.5696 of 2013 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

42.

FAO No.234 of 2014 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

43.

FAO No.235 of 2014 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...Respondents

44.

FAO No.236 of 2014 (O&M)
Date of decision : 04.09.2015

Fateh Construction & another

...Appellants

Versus

Reliance Capital Ltd. & anr.

...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 Kumar Khunger, Advocate for appellants.

Mr. Sandeep Suri, Advocate for respondent No.1.

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of 44 FAOs as common question of law and facts are involved.

Challenge in the present appeals is to the impugned order, whereby objections filed by appellants against the award have been dismissed.

Mr. Ashok Kumar Khunger, learned counsel appearing on behalf of appellants submits that Arbitrator did not resort to the provision of Order 5 Rule 20 of Code of Civil Procedure in effecting the service upon appellants and only sent registered notice. He further submits that even provision of Section 3 of Arbitration and Conciliation Act, 1996 (hereinafter to be referred to as 'the Act') have not been complied with. The appellants did not receive any notice of the arbitration proceedings and, therefore, were not aware of such proceedings. On going through the award, objections have been filed. He further submits that dispute had arisen on account of non-payment of the loan installments, in respect of loan taken by appellants from the respondents, for purchase of vehicles. Though appellants have been paying the installments on time and there had been defaults of one or two installments, but there was no occasion to refer the dispute to the Arbitrator.

Mr. Sandeep Suri, learned counsel appearing on behalf of respondent No.1 submits that appellants before arbitration proceedings wrote letter dated 13.08.2012 requesting the Arbitrator to drop the proceedings as there was no dispute between the parties. There was not adherence to the loan schedule and this fact has been noticed by the Arbitrator and despite that appellants did not appear before the Arbitrator and even no explanation, much less, reasonable explanation has been shown for non-appearance before the Arbitrator. In essence, objections in this regard have thus rightly been dismissed by the Additional District Judge, Bathinda as it did not fall within the parameters of Section 34 of the Act.

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

There is no dispute to the provision of Section 3 of the Act, notice of the arbitration proceedings either have to be handed over to respondents or through registered post. The Arbitrator has resorted to the procedure of sending the notice by registered post and in response to the notice, Mr. Harpreet Singh, Authorized Signatory of appellants had written letter dated 13.08.2012 to Arbitrator requesting him to drop proceedings. But on receiving the notice of the arbitration proceedings, the appellants could have engaged services of lawyer or participated in the arbitration proceedings on their own in defending the alleged claim of respondents. Having not done so, it appears that appellants did not dispute the alleged claim.

Court below in my view rightly rejected objections as no

explanation has been given as to whether the appellants had actually received the notice of Arbitrator or not.

In my view, Arbitrator ought not to have resorted to the provision as envisaged under Order 5 Rule 20 of Code of Civil Procedure in view of letter dated 13.08.2012 noticed above.

There is no illegality and perversity in the impugned order and cannot be said to have been passed without jurisdiction, much less, suffers from any fallaciousness.

There is no merit in the appeals.

Same are accordingly dismissed.

04.09.2015

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(AMIT RAWAL)
JUDGE