

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

FAO No.4966 of 2015 (O&M)

Date of decision : 13.08.2015

Panjab University Staff (Homes) Provision Associates Cooperative Society
Ltd. (PUSHPAC)

...Appellant

Versus

M/s Sandhu Contractors Pvt. Ltd.

...Respondent

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. A.K. Chopra, Sr. Advocate with
Mr. Anil Lambhdaria,
Mr. Harminder Singh, Advocate for the appellants.

Mr. Inderjit Kaushal, Advocate for the respondents.

AMIT RAWAL, J. (Oral)

CM No.16301-CII of 2015

Prayer in the application is for placing on record reply to the application seeking condonation of delay in filing the appeal.

Reply to the application seeking condonation of delay has been filed on behalf of respondent.

For the reasons stated in the application, which is duly

supported by an affidavit, delay of 168 days in filing the appeal is condoned.

Application stands allowed.

Main Case

Mr. A.K. Chopra, learned Senior Counsel assisted by Mr. Harminder Singh, Advocate for the appellant submits that during the pendency of the proceedings, order dated 01.08.2015 has been passed, whereby the entire property belonging to the society consisting of residential flats has been attached, whereas the decree is allegedly for an amount (disputed) of ₹1.78 Crores, therefore, the attachment order could have been confirmed to part of property and to the fact that entire property belonging to the society.

Mr. Inderjit Kaushal, learned counsel appearing on behalf of respondent/Contractor do not dispute to the passing of the order dated 01.08.2015.

I have seen order dated 01.08.2015 passed on to this Court during the course of hearing, and is ordered to be annexed at the end of the paper book.

On going through the order, it is evident that the entire property belonging to the society consisting of the residential flats has been attached.

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

I have gone through the order dated 01.08.2015, which reads thus:-

“Cost paid. Heard. Shri A.K. Sharma, Advocate,

submits that appeal against the order passed under Section 34 of the Arbitration Act has been preferred before the Hon'ble Punjab and Haryana High Court. Accordingly, it has been submitted that in case the warrant of attachment would be issued, it would lead to inconvenience to the respondents.

On the other hand, Shri Inderjit Kaushal, Advocate for DH submits that the appeal has been preferred beyond the period of limitation. It has not even been taken up on merits.

Be that as it may, the property as per the detailed list is ordered to be attached because until there is stay orders, the order under execution has to be taken to its logical end. For awaiting attachment to come upon 21.8.2015. Warrant of attachment be issued.”

Though the order of attachment is with regard to entire property of society-Judgment Debtor. Mr. Chopra, learned Sr. Counsel submits that list of the properties submitted by the Decree Holder/respondent, consisted of the entire Community Centres of the society, attachment of Flat Nos.1101 to 1600 PUSH PAC Society, attachment of complete sub-station of electricity supply of the society, Sector 49-B, Chandigarh.

He submits that order of attachment tantamount to attachment of all the properties aforementioned.

I am of the view that the decree is for an amount of ₹1.46 Crores, it would not be in the fitness of thing to continue with the attachment of the entire property as mentioned above. Accordingly, the order dated 01.08.2015 shall be construed to and confined to the attachment of Community Centres of PUSH PAC Society, Sector 49, Chandigarh.

It is made clear that there shall not order of attachment with regard to the flats and sub-station.

Since, challenge in the present petition is to the impugned order dated 21.11.2014, passed under Section 9 of the Arbitration and Conciliation Act for grant of interim protection but the fact remains that during the pendency of the petition, arbitration award dated 03.03.2014, has been passed and, therefore, no cause survives in the present appeal, thus, proceedings under Section 9 are deemed to have been rendered infructuous.

Accordingly, the first appeal is disposed in abovesaid terms.

It is made clear that order of attachment shall abide by the outcome/decision of FAO No.5248 of 2015, which is listed for preliminary hearing on 01.09.2015.

13.08.2015

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**(AMIT RAWAL)
JUDGE**