

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

F.A.O.No.8335 of 2015

Date of Decision: December 11, 2015

Ashok Kumar

...Appellant

Versus

Punjab State Civil Supplies Corporation Ltd., Chandigarh & 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.Mukand Gupta, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Learned counsel appearing on behalf of the appellant submits that the Arbitrator did not resort to the procedure for effecting service through publication, instead chosen to send one registered notice at the factory, which was lying closed and thereafter attempted to serve the appellant through District Manager, PUNSUP, therefore, the entire ex-parte arbitration proceedings are vitiated in law. This aforementioned aspect has not been looked into by the Objecting Court.

He further submits that the Objecting Court had accepted the contention that the objections were well within limitation as the same were filed on receipt of the notice of the execution proceedings, which was served on the residential address of the appellant. In support of his contention, relies upon the judgments rendered in **Sona Finance Pvt.Ltd.**

Versus Triupati Paper Mills Pvt.Ltd. And another, 2003(3) ArbiLR 307
and M/s Punjab Kashmir Finance Pvt.Ltd. Versus Jagsir Singh and
others, 2013(7) R.C.R. (Civil) 2604.

I am in agreement with the submission made by the learned counsel for the appellant. In my view, that this aspect has not been noticed by the Objecting Court while dismissing the objections. For the sake of brevity, zimni orders are extracted herein below:-

“Dated: 05-12-2011:

Present: Miss.Ravinder Kaur, Advocate, as proxy counsel for Mrs.Deepali Puri, Advocate Counsel for the Claimant along with Sh.Deepak Sharma, Sr.Asstt. A/Cs, Punsup, Sangrur. Neither the Respondent has appeared nor the Regd.envelop/notice sent to him has been received back. Therefore, the case is adjourned to 19-12-2011 at 12.30 P.M. For awaiting the service of the Respd.

Claimant.

Sole Arbitrator

05-12-2011

Dated: 19-12-2011

Present: Counsel for the claimant who has filed claim petition and a copy for the Respd., who has not appeared inspite of deemed service as Regd.notice sent to him on 21-11-11 has not been received back, therefore, copy of the claim petition along with the forwarding letter be sent to the DM for service on the Respd. with the direction to file Reply on 9.1.12 at 12.30 PM to send compliance report before the date of the Respd.

Claimant

Arbitrator

Punsup V/S Ms.Shree Ganesh Rice Mills, Sheron, Distt.
Sangrur

Order sheet

Dated: 09-01-2012:

Present Miss.Ravinder Kaur, Advocate, as proxy counsel for Mrs.Deepali Puri, Advocate Counsel for the

Claimant None for the Respdt. A copy of the claim petition alongwith the forwarding letter in duplicate was sent to D.M., Punsup, Sangrur for service on the respondent and for reply by the respondent. The same have been duly served on the respondent and acknowledgment of the Respdt. along with a copy of the letter delivered to the Respdt.has been forwarded by D.M., Punsup, Sangrur which is placed on record. The Respondent has neither appeared nor has filed reply. Therefore, ex-parte proceedings are taken against the Respdt. Now the Claimant should file evidence by way of affidavit alongwith supporting documents on 23-01-2012 at 12.30 P.M. A copy of the order sheet may be sent by ordinary post to the respondent for information and necessary action.

Claimant

Sole Arbitrator

09-01-2012”

Keeping in view the aforementioned facts, I am of the view that the matter requires to be remanded back to the Objecting Court to examine the objections from this angle as according to this Court, the objections were within the parameters of Section 34 of the Arbitration and Conciliation Act, 1996. Accordingly, the order of the Objecting Court is set-aside. The matter is remitted back to the Objecting Court with a direction to decide the objections keeping in view the aforementioned objections.

On receipt of the copy of this order, the Objecting Court shall issue notice to the parties for hearing of the objections.

The appeal is accordingly disposed of.

December 11, 2015
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(AMIT RAWAL)
JUDGE