

209.

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

Civil Revision No.1589 of 2012 (O&M)

Date of decision:02.03.2016

M/s Electronics Components (India) through its proprietor Mr.Ravi Kant Ahuja, Shed No.E-81, Phase VIII, SAS Nagar, Mohali.

... Petitioner

versus

Punjab State Electronics Development & Production Corporation Limited now Punjab Information and Communication Technology Corporation Limited, Udyog Bhavan, Sector 17, Chandigarh.

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Puneet Bali, Senior Advocate,
with Ms. Neha Sonawane, Advocate,
and Mr. Paramveer Singh, Advocate,
for the petitioner.

Mr. D.V. Sharma, Senior Advocate,
with Ms. Shivani Sharma, Advocate,
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The issue involved is the competence of a court to make the award rule of the court. The award was admittedly passed on 27.02.1992. The notice of award had been sent to the parties. Neither party applied to the court to make it rule of the court. The award was submitted 12 years later by the Arbitrator on 19.03.2004.

The court has passed an order stating that when the award was filed

by the Arbitrator himself, there is no bar of limitation.

2. The court's observation is wide and cannot be supported in the light of law laid down in Patel Motibhai Naranbhai and another Versus Dinubhai Motibhai Patel and others-(1996) 2 SCC 585. The senior counsel appearing on behalf of the respondent states that there are other judgments of the Supreme Court which state that if the award has been submitted by the Arbitrator, there is no period of limitation.

3. I am not prepared to examine this situation, for, it is an admitted case that the respondent, who wants the award passed to be made the rule of court admittedly had the benefit of the copy of the award to be served within a period of 30 days. Such a person shall apply to the court under Article 119 of the Limitation Act which states as follows:-

<i>Description of application</i>	<i>Period of limitation</i>	<i>Time from which period begins to run</i>
Under the Arbitration Act, 1940,-		
(a) for the filing in Court of an award;	Thirty days.	The date of service of the notice of the making of the award;
(b) for setting aside an award or getting an award remitted for reconsideration.	Thirty days.	The date of service of the notice of the filing of the award.

The fact that the Arbitrator filed it beyond 12 years cannot assist the petitioner, for, the Arbitrator's act cannot come to the rescue of the respondent herein if he has chosen not to apply to the court to make the rule of the court.

4. There is also an argument made of whether the particular Arbitrator had the competency to file it in court since the officer, who passed the award, was not actually the person, who was the holder of the office at the time when the arbitral award was filed into court. I am of the view that it is unnecessary for me to examine for the case ought to be allowed on a singular consideration of the incompetency of the court to pass the decree in terms of the award after the award was served to the party immediately after passing the same and the respondent failed to apply to the court within the time prescribed by law as set out above.

5. The impugned order is set aside and the revision petition is allowed. It is a matter of intrigue as to what the petitioner wants to achieve. The petitioner had been served with order of cancellation of allotment. If that cancellation was challenged in arbitration but the award has come to no effect, the cancellation stands. The respondent will obtain the consequences of such cancellation.

(K.KANNAN)
JUDGE

02.03.2016
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