

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

**CR No.5450 of 2014**

**Decided on: 28.11.2016**

Subhash Chander Garg

....Petitioner

Versus

State of Punjab and others

....Respondents

**CORAM: HON'BLE MRS JUSTICE REKHA MITTAL**

**Present :** Mr. P.S. Rana, Advocate for the petitioner.

Mr. B.S. Sra, Addl. A.G., Punjab for respondents No.1 to 3.

**REKHA MITTAL, J. (Oral)**

The present petition directs challenge against order dated 08.05.2014 (Annexure P10) passed by the Additional District Judge, Ferozepur whereby application filed under Section 14 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') has been dismissed.

The sole submission made by counsel for the petitioner is that the Court below has not decided the question as to whether mandate of sole Arbitrator stands terminated and the Arbitrator has failed to act without undue delay to adjudicate the disputes/differences, rather has decided the petition by saying that the petitioner has not submitted his claim within a period of six months or passing of the final bill, therefore, the claim is barred by limitation which is not within the domain of the Court to decide as the question of claim being barred or otherwise is within the jurisdiction of the Arbitrator. It is further submitted that as the Court below has not decided the real controversy between the parties by determining issue No.1 with regard to the declaration sought by the petitioner, the impugned order may be set-aside and the matter may be remitted to the Court of District Judge for

adjudication afresh.

Counsel representing the respondents has not disputed that the issue as to whether the claim filed before the Arbitrator is within the prescribed period or otherwise is to be decided by the Arbitrator and not by the Court.

I have heard counsel for the parties and perused the paperbook particularly the order impugned.

A bare perusal of the findings recorded by the Court below in paras 11 and 12 of the impugned order would make it evident that the Court has not adverted to the controversy raised in the petition filed under Section 14 of the Act and has decided the petition by holding that the claim filed by the petitioner is barred having been submitted beyond the prescribed period as the claim was required to be submitted within six months of passing of the final bill. As the Court of District Judge is not competent to decide the question of claim being barred by limitation or otherwise as that question lies within the exclusive domain of the Arbitrator, the order impugned cannot be allowed to sustain and liable to be set-aside.

For the foregoing reasons, the petition is partly allowed, the impugned order is set-aside and the matter is remitted to the Court below for adjudication afresh, in accordance with law. The parties through their counsel are directed to appear before the Court concerned on 15.12.2016.

28.11.2016  
*yakub*

(REKHA MITTAL)  
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No