

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

FAO No.4997 of 2005 (O&M)

Date of decision : 24.02.2016

Union of India and another

...Appellants

Versus

M/s V.K. Construction (P) Ltd. and another

...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. Pankaj Jain, Advocate, Sr. Panel Counsel, UOI-appellant.

Mr. Akshay Bhan, Sr. Advocate with
Mr. Alok Mittal, Advocate for the respondents.

AMIT RAWAL, J. (Oral)

This case is already on the regular board of this Court. Application is at the instance of Union of India for seeking stay. Both the parties have consented that instead of pondering upon the application for stay, main case be heard on merits.

Mr. Pankaj Jain, learned counsel appearing on behalf of Union of India submits that agreement entered into between the Union of India and V.K. Construction (P) Ltd. envisages the resolution of dispute through arbitration within a period of 90 days from the date of preparation of the

final bill and the claim was not entertainable being barred. However, this fact has not noticed by the Arbitrator which entail into passing of the award in favour of the Contractor. He further submits that reason assigned is not in consonance with the terms and conditions of the Contract and thus there is apparent violation of provision of sub-Section 3 of Section 28 of 1996 Act. Objections in this regard has also met with the same fate, therefore present appeal has been filed.

Mr. Akshay Bhan, learned Senior Counsel assisted by Mr. Alok Mittal, Advocate for the respondents, seeks the aid of the provision of Section 29 of the Limitation Act which envisages that until and unless statute provides the limitation, the parties cannot be governed by the provision of the terms and conditions of the contract, in essence, period of 90 days was against the Limitation Act, 1963. Objections were not falling within the provision of Section 34 of the Act.

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

It would be apt to reproduce Section 29 of the Indian Limitation Act:-

“29. Savings.—

(1) Nothing in this Act shall affect section 25 of the Indian Contract Act, 1872 (9 of 1872).

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any

suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.

(3) Save as otherwise provided in any law for the time being in force with respect to marriage and divorce, nothing in this Act shall apply to any suit or other proceeding under any such law.

(4) Sections 25 and 26 and the definition of "easement" in section 2 shall not apply to cases arising in the territories to which the Indian Easements Act, 1882 (5 of 1882), may for the time being extend."

Provision of entertaining claim in 90 days is not in consonance with the provision of Indian Limitation Act. Limiting the period for lodging complaint in my view is against the provision of the Act whereas applicability of the Act has not been ousted under Section 1996 Act except for dealing with the objections under Section 34 or filing of the appeal.

Accordingly, the claim of the Contractor cannot be said to be barred by law of limitation and rightly so, has been accepted on the grounds taken in the claim petition and the objections filed by the appellant-UOI have not been accepted by the Objecting Court.

I am in agreement with the findings rendered by the Objecting Court. There is no illegality and perversity.

No ground for interference is made out.

Dismissed.

24.02.2016

pawan

**(AMIT RAWAL)
JUDGE**