

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

FAO No.3010 of 2008 (O&M)

Date of decision : 25.01.2016

M/s Shree Ganesh Udyog, Dhuri and another

...Appellants

Versus

Punjab State Civil Supplies Corporation Ltd. and ors.

...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. Amarjit Markan, Advocate for the appellants.

Mr. Rakesh Gupta, Advocate for respondent Nos.1 and 2.

AMIT RAWAL, J. (Oral)

The appeal is at the instance of the Miller who is aggrieved of the impugned order, whereby objection filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as 'the Act') for setting aside of the ex parte award dated 16.03.2004, has been dismissed on the ground of limitation and as well as on merits.

Mr. Amarjit Markan, learned counsel appearing on behalf of Miller submits, that Miller was proceeded ex parte on the basis of the fact that they were ordered to be served through publication in the newspaper caused on 18.10.2003 for 04.11.2003, whereas notices alleged to be sent by

Arbitrator, was not received. The Miller had already instituted the suit against the PUNSUP. During the pendency of the aforementioned suit, PUNSUP moved the application dated 31.07.2004 accompanied by ex parte award dated 16.03.2004. It is only on filing of the aforementioned application, Miller acquired the knowledge of the ex parte award and thereafter filed objection on 29.10.2004 i.e. within 90 days, for, as per the provision of Section 31(5), the limitation would start from the date of the knowledge.

He further submits that as per the arbitration award, copy of the award was directed to be sent by PUNSUP at the Miller address and received back with a report that mill was lying closed, thus, the objection could not have been dismissed for want of limitation. Though, the Objecting Court has dismissed the objections on merits but prime weightage is that objections were barred by law of limitation.

Mr. Rakesh Gupta, learned counsel appearing on behalf of PUNSUP submits that when objections were filed it was accompanied with the photocopy of the award supplied alongwith application, aforementioned, and another copy of award, meaning thereby, Miller was dilly delaying the matter while having the knowledge of the ex parte award.

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

Shorn of the facts as noticed above, much less, the report received on the envelope containing the copy of the ex parte award, Mill was lying closed, there was no report of effecting the service of the award on the Miller, in essence, provision of Section 31(5) of the Act has not been

complied with. Objections on acquiring the knowledge on 31.07.2004 had been filed on 29.10.2004 i.e. within 90 days, therefore, the objections could not have been dismissed being barred by law of limitation. Accordingly, findings rendered by the Objecting Court in this regard are set aside. Since Objecting Court has assigned two reasons for rejecting the objections, one on account of limitation and another on merits, I am of the view that matter is required to be reconsidered by the Objecting Court vis-a-vis merits of the objections, inasmuch as to whether they are falling within the parameters of Section 34 of the Act or not and accordingly, impugned order dated 05.08.2008 is set aside.

The matter is remitted back to the Objecting Court to decide the objections afresh uninfluenced with the findings rendered by this Court.

Parties through their counsel are directed to appear before Objecting Court on 12.02.2016.

Record be sent to the Objecting Court for adjudication.

It is expected that Objecting Court shall decide the objections as expeditiously as possible within a period of four months from the date of receipt of certified copy of this order.

Appeal is accordingly disposed of.

25.01.2016

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**(AMIT RAWAL)
JUDGE**