

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

F.A.O.No.5684 of 2010 (O&M)

Date of Decision: April 05, 2016

Punjab State Warehousing Corporation Ltd. & another

...Appellants

Versus

M/s Ranjit Rice Mill Sanghol & another

...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: Ms.Deepali Puri, Advocate,
for the appellants.

Mr.Gaurav Singh Rana, Advocate &
Mr.K.S.Boparai, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

Civil Misc.No.24978-CII of 2010

For the reasons mentioned in the application, which is supported by an affidavit, delay of 2 days in filing the appeal is condoned.

CM stands disposed of.

FAO No.5684 of 2010 (O&M)

The appellants are aggrieved of the dismissal of the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "1996 Act") for setting-aside of the award dated 17.9.2004 as the same were held to be barred by law of limitation.

Ms.Deepali Puri, learned counsel appearing on behalf of the appellants submits that they did not receive copy of the award. There is no

compliance of the provisions of sub-section (5) of Section 31 of 1996 Act and, therefore, the objections would be treated to be within time as they were filed within the period of limitation as prescribed under Section 34 of 1996 Act from the date of the receipt of copy of the award. There is no delay of 147 days. This fact has not been appreciated by the Objecting Court.

Mr.G.S.Rana and Mr.K.S.Boparai, learned counsel appearing on behalf of respondent No.1 submit that as per the operative part of the order, copy was sent by registered post. No explanation has come forth that the award was not received by the appellants. There is presumption of Section 27 of the General Clauses Act regarding receipt of the award and, therefore, the objections were hopelessly time barred and they were not as per the provisions of sub-section (3) of Section 34 of 1996 Act and, thus, urge this Court for upholding the order under challenge.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the objections filed in the month of March, 2006 for setting-aside of the award dated 17.9.2004 were hopelessly barred by law of limitation. It would be apt to reproduce the operative part of the award, which reads thus:-

“This award is made and signed by me on 17.9.04 and a copy each thereof may be sent to the claimant and respondent (by registered post). After completion, this file along with original award may be sent to the Arbitration Branch, PSWC, Chandigarh.

NOTE: *This arbitration file as and when required, may be requisitioned from Arbitration Branch, Head Office, Punjab State Warehousing Corporation, SCO No.74-75, Bank Square, Sector 17, Chandigarh through officer incharge of the Branch.*

Chandigarh

Sd/-

Dated:17.9.04

(Kanwar Gulwant Singh)

Sole Arbitrator, PSWC. ”

On perusal of the award, copy of the same was sent to the parties to the lis by registered post. No explanation has come forth, much less any certificate from the post office that the copy of the award sent by registered post was not received by the office of Punjab State Warehousing Corporation. It is settled law that the provisions of Section 5 of the Limitation Act do not apply to the objections. Sub-section (3) of Section 34 of 1996 Act prescribes the specific period of limitation to file the objections within 90+30 days (grace period)=120 days supported by an affidavit, whereas the objections were filed after delay of 147 days and, therefore, rightly so the same were dismissed.

No ground for interference is made out.

The appeal stands dismissed.

April 05, 2016
ramesh

(AMIT RAWAL)
JUDGE