

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.7165 of 2011 (O&M)

Date of decision:13.05.2016

Ramesh Kumar

... Appellant

Vs.

Magma Leasing Ltd. and others

... 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. S.S.Walia, Advocate
for the appellant.

Ms. Sunint Kaur, Advocate, for
Mr. Mohit Sareen, Advocate
for respondents No.1 and 2.

AMIT RAWAL J. (Oral)

C.M.No.30313-CII-2011

Deficiency of the Court fee, has been made good.

C.M. stands disposed of.

FAO No.7165 of 2011 (O&M)

Appellant is aggrieved of the dismissal of the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "1996 Act") for setting aside of the award dated 24.11.2006.

Mr. S.S.Walia, learned counsel appearing on behalf of the appellant submits that Arbitrator was appointed at Calcutta. The

parties were required to appear at Calcutta and it was very difficult on each and every date to visit Calcutta and thus, was proceeded against ex parte. A copy of the award was made available on 12.05.2007 and the objections were filed on 16.05.2007, therefore, could not have been said to be barred by law of limitation as the limitation would start from the date of receipt of certified copy of the award and not from the date of passing of the award. All these facts have not been noticed by the objecting court and therefore, the award, much less, order under challenge are liable to be set aside.

Ms. Sunint Kaur, learned counsel appearing on behalf of respondents No.1 and 2 has pointed out that both the ordinary and registered AD cover of 19.12.2006 were placed on record to show that the copy of the award was sent through registered cover, at the address which has not been disputed and therefore, the limitation started from December, 2006. At the best, it could have begun from 4th day thereafter. It carries presumption of truth under Section 27 of the General Clauses Act.

I have heard learned counsel for the parties and appraised the paper book and of the view that once registered AD cover has not been disputed by the appellant, limitation as per Section 34(3) of 1996 Act is 90 days + 30 days grace period, i.e., total =120 days, whereas, objections as noticed above were filed on 16.05.2007. Appellant cannot extend the period of limitation by coining the story of receiving the award on 12.05.2007. Had there not

been any registered AD cover, there would be some substance in the plea, but it is not so.

For the foregoing reasons, in my view, the objections have rightly been dismissed being barred by law of limitation. There is no merit in the appeal.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 13, 2016
savita