

226

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

**FAO-259-2013 (O&M)
Date of decision : 08.07.2016**

Additional Commissioner, MC, Chandigarh and another

... Appellants

Versus

Subhash Chander

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Deepali Puri, Advocate
for the appellant(s).

Mr. Arshdeep Bhullar, Advocate
for the respondent(s).

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?

AMIT RAWAL, J. (ORAL)

CM-1555-CII-2013

For the reasons stated in the application which is supported by an affidavit, the delay of 525 days in filing the appeal is condoned.

CM stands disposed of.

FAO-259-2013 (O&M)

The appellant(s)-Municipal Corporation, Chandigarh is aggrieved of the order dated 12.05.2011, whereby the objections under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter called

‘the 1996 Act’) filed at the instance of the respondent have been allowed and the application seeking extension of time has been dismissed vide order dated 08.11.2012.

Ms. Deepali Puri, learned counsel appearing on behalf of the appellant(s)-Municipal Corporation submits that in view of the licence having been given to the respondent(s)-Contractor to manage the parking of the Lake Club, Chandigarh, the respondent(s)-Contractor had furnished a security amount of ₹ 5,00,000/-. Owing to certain complaints, the Contract was terminated and the contract envisaged the resolution of dispute through Arbitration. The matter was referred to the Arbitrator, who was none-else, but the Commissioner, Municipal Corporation, Chandigarh. The Commissioner rejected the claim, but the same was assailed under Section 34 of the 1996 Act and the Objecting Court vide order dated 12.05.2011 remanded back the matter to the Commissioner by observing that the opportunity to cross-examine the witnesses of the Corporation was not given to the Contractor. It was further observed that the Award was passed in the presence of a person, who was not authorized by the Contractor and with a further rider that in case the arbitration proceedings are not concluded within a period of 3 months, then the security amount of ₹ 5,00,000/- along with interest shall be refunded to the Contractor.

She further submits that during the interregnum, the file was lost in the office and explanation has been given in the application seeking condonation of the delay which was supported by an affidavit. Accordingly, the application for extension of time was moved on 24.03.2012, but the same was declined vide order dated 08.11.2012.

She further submits that the Arbitrator is willing to conclude the arbitration proceedings, in case, some reasonable time is given, so that, the matter is brought to the logical end.

Mr. Arshdeep Bhullar, learned counsel appearing on behalf of the respondent(s)-Contractor submits that no cogent reasons, much less, reasonable explanation have been given in filing the appeal. The appeal is hopelessly belated by 525 days' delay, much less, even the alleged action taken against the officer has not seen the light of the day. The appellant(s) has not brought any document to show fixing of the responsibility of any officer, thus, approach has been callous and lackadaisic which cannot be entertained at this stage of the matter and prays for dismissal of the appeal.

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

In view of the attenuating circumstances explained in the application and as well as in the grounds of appeal, I deem it appropriate to direct the Arbitrator to conclude the arbitration proceedings within a period of two months from the date of receipt of the certified copy of the order by giving effective opportunities to the respondent(s)-Contractor to cross-examine the witnesses of the Corporation in order to belie the allegations of over charges etc. and in case, the claim of the Contractor is found to be genuine, he should be refunded the security amount of ₹ 5,00,000/- along with interest owing to alleged suffering of loss.

However, keeping in view the fact that the delay of 525 days in filing the appeal is enormous, I deem it appropriate to impose the cost of ₹ 30,000/- which shall be condition precedent and the same shall be paid to

the learned counsel for the respondent(s)-Contractor in the High Court.

With the aforesaid observations, the appeal stands disposed of.

08.07.2016
yogesh

(AMIT RAWAL)
JUDGE