

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

FAO No.4259 of 2016
Date of decision : 16.08.2016

Gurdev Kaur

...Appellant

Versus

M/s Magma Fincorp. 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. Raman Mohinder Sharma, Advocate for the appellant.

AMIT RAWAL, J. (Oral)

CM No.14633-CII of 2016

The application is allowed as deficiency in Court fees has been made good subject to all exceptions.

Applications stands disposed of.

CM No.14634-CII of 2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 106 days in refiling the instant appeal is condoned.

Application stands allowed.

Main Case

The appellant-Gurudev Kaur, respondent No.2 before the Arbitrator is in appeal under Section 37 of the 1996 Act for setting aside of the award dated 18.10.2010 and as well as the order seeking setting aside of the award filed under Section 34 of the Arbitration and Conciliation Act.

Mr. Raman Mohinder Sharma, learned counsel appearing on behalf of appellant submits that appellant-Gurudev Kaur being mother of Rajinder Singh-respondent No.1 before Arbitrator was never served with any notice of the proceeding of the Arbitrator. Award came to be passed in 2010. Appellant came to know about the award on 16.12.2011, when auction order was passed by the ADJ, Patiala and with promptitude filed the objection on 18.10.2014 but the same had been dismissed being barred by law of limitation.

He further submits that loan taken from the respondent-company was to the tune of ₹6,25,000/- and the loan agreement was for a period of 156 months. The rate of interest at the rate of 17% was phenomenal high, much less, monthly installments of ₹9964/-. Even the increase of rate of interest is unilaterally act. The appellants are willing to deposit ₹2,00,000/- against the awarded amount of ₹8,25,000/- (an odd amount) and only paid ₹1,00,000/- an odd amount.

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

The Arbitrator had sent the notice of the proceedings through registered post on 13.07.2010. It was served and duly signed by Rajinder Singh and even Rajinder Singh was none else but the son of Gurdev Kaur though had the knowledge of the aforementioned proceedings. Even he had

not chosen to file the appeal in this Court though they were together in the proceedings under Section 34 of the Act. It has become common practice for the loanee that after taking loan they have failed in making the payment of the installments and think of resolution through Arbitration and allowed the ex parte award to be based and then moved the application for setting aside of the ex parte award, much less, objection, in order to delay the execution of the award. Such an act in the instant case is of same nature. Limitation to file the appeal is 90+30 days, if accompanied with application for condonation of delay whereas objections as notice above were filed on 18.10.2014. No additional evidence contrary to one brought on record, has been proved on record and form a different opinion as arrived by the Arbitrator.

For the aforementioned reasons, I do not find any illegality and perversity.

No ground for interference is made out.

Dismissed.

Even the payment of ₹2,00,000/- is too meager amount vis-a-vis the consideration of the awarded amount of compensation.

16.08.2016

pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes

Whether reportable:-

Yes/No