

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

FAO No.4456 of 2016 (O&M)

Date of Decision.05.08.2016

Meghdoot Cooperative Group Housing Society, Gurgaon

.....Appellant

Vs.

M/s Vikash & Associates and another

.....Respondents

Present: Mr. P.R. Yadav, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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?

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AMIT RAWAL J. (ORAL)

The present appeal accompanied by an application seeking for condonation of delay of 376 days, falls out of realm of reasonable explanation, much less, beyond the control of not filing the same within time. The appeal is liable to be dismissed on the ground of limitation as well as on merits.

It is conceded position on record that claim at the instance of respondent No.1 is by a contractor against the society to whom the work was assigned to design the building. The contractor had submitted final bill on 06.06.2000 and the part payment was made on 18.09.2000. Thereafter, the society did not make the payment and within the period of three years, in July 2003, the contractor raised the demand but the society did not respond to the aforementioned notice rather set up counter claim *viz-a-viz* certain defects. The matter was sought to be referred to the Arbitrator and in view of the intervention of this Court, a former Chief Justice was

appointed as Arbitrator and he went into reference in July, 2007. The appellant-society filed the counter claim in the year 2008. The cause of action had accrued as way back as in the year 2000 and the part payment was made and it lasted only for three years. It could not have been extended on a plea that the Arbitrator entered into reference in the year 2007 and therefore, the counter claim raised in the year 2008.

I am of the view that the Arbitrator rightly rejected the counter claim raised by the Society and upholding of the same by the Objecting Court is perfectly legal and justified. The appeal is dismissed both on the ground of limitation as well as on merits.

(AMIT RAWAL)
JUDGE

August 05, 2016

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No