

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

**Civil Revision No.74 of 2017 (O&M)
Date of Order:02.05.2018**

Manjit Singh

..Petitioner

Versus

Magma Fincorp Limited and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rahul Arora, Advocate, for
Mr. Raman Goklaney, Advocate,
for the petitioner.

Mr. Nakul Sharma, Advocate,
for the respondents.

ANIL KSHETARPAL, J(Oral)

Petitioner filed objection under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') along with an application under Section 5 of the Limitation Act asserting that copy of the award was not received and, therefore, there is delay in filing the application.

Learned trial court after noticing that the award was sent to the parties through registered post, dismissed the application for condonation of delay.

No doubt, application under Section 5 of the Limitation Act was not maintainable, however, keeping apart technicalities, it is clear from the reading of Section 34 of the Act that period to file objection under Section 34 of the Act begins from the date a copy of the arbitral award is received by the party. It is the positive allegation of the petitioner that no copy of the award was received by him. It may be noticed that while

passing the impugned order, learned Additional District Judge, has even noticed the date of award wrongly. The award was passed on 13.08.2014, whereas the learned Court has noticed the date as 12.11.2013.

Still further, the learned trial court has recorded that from the perusal of the file, it is proved that signed copies of the award were sent through registered post to the parties. However, when counsel for the respondent was called upon to produce, a copy of the communication sent through speed post has been produced.

Learned counsel for the respondent has vehemently argued that there is a presumption of service of the award as the copy of the award was sent to the petitioner through speed post at the correct address. Receipt of the speed post does not show as to what was the address mentioned on the envelope. No evidence has been produced to prove that the copy of the award was served on the petitioner.

Petitioner has filed objections under Section 34 of the Act. Petitioner only wants that those objections should be decided on merits.

Keeping in view the aforesaid facts, the revision petition is allowed and order under challenge is set aside.

Learned Additional District Judge, is requested to decide the objections filed under Section 34 of the Act, in accordance with law.

Parties through their counsels are directed to appear before the learned court on 28.05.2018.

May 02, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No