

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

C.R. No.3740 of 2019

Date of Decision.31.05.2019

Balvir Singh

...Petitioner

Vs

M/s Cholamandalam Investment & Finance Co. Ltd. and others

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Maninder Singh Saini, Advocate
for the petitioner.

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AMIT RAWAL J. (ORAL)

Learned counsel for the petitioner submits that respondent financial company had obtained ex parte award dated 7.11.2016 against the petitioner in respect of non-payment of installments of loan amount towards vehicle bearing No.PB01-A-3896. The copy of the award in original was not served by registered post and acquired knowledge only when the notice of execution was received. As per settled law, unless and until there is proof of sending the arbitration award by registered post and its refusal, limitation would not be arrested. The financial company did not place on record any material of having served copy of the award. Even execution was also sought with photocopy whereas original copy of award as per requirement of law is to be filed. Objections qua execution of the award were filed, therefore, the impugned order would not be sustainable.

I have heard learned counsel for the petitioner and appraised the paper book. The law with regard to limitation is no

longer *res integra*. If affected party is not served with copy of award and in the absence of proof, the limitation would not start from the date of award but from the date of receipt of copy of the award. Section 42 of the Arbitration and Conciliation Act, 1996 enables the party to file the objections even at the place where he is residing. For the sake of brevity, Section 42 of the 1996 reads as under:-

“42. Jurisdiction.—Notwithstanding anything contained elsewhere in this Part or in any other law for the time being in force, where with respect to an arbitration agreement any application under this Part has been made in a Court, that Court alone shall have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court.”

The mis-conception on behalf of the petitioner in not filing the objections before the same court is that objections were to be filed before the objecting court under Section 34 of the 1996 Act. Be that as it may. Since the petitioner acquired knowledge on receipt of notice of execution with photocopy of the award, treating the date as notice, petitioner is still at liberty to file the objection petition by taking the aid of provisions of Section 14 of the Limitation Act for condonation of delay of period spent aforementioned with objections by citing law with regard to objections not within the parameters of Section 34 and its provisos. In case, petitioner avails the remedy within a period of 45 days from today along with aforementioned

application, owing to the fact that summer vacations are on anvil, the Court shall decide the same in accordance with law.

The revision petition stands disposed of in above terms.

(AMIT RAWAL)
JUDGE

May 31, 2019
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No