

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

FAO No. 1913 of 2014 (O&M)

Date of decision: 15.10.2019

The Kadiyan Co-operative Society Ltd.

...Appellant

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sushil Jain, Advocate,
for the appellant.

Mr. Paramjit Singh, AAG, Haryana
for respondent No.1.

JAISHREE THAKUR, J. (ORAL)

1. This is an appeal that has been filed seeking to challenge the order dated 09.12.2013 passed by the District Judge, Sonipat whereby objection petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "1996 Act") for setting aside the ex parte award dated 27.11.2009 has been dismissed, primarily on the ground that the said objection petition was filed beyond the period of limitation.

2. In brief the facts are that an agreement was entered into between the appellant - Kadiyan Co-operative Society Ltd. and the respondent-State through the Executive Engineer for work of strengthening of road from Ganaur to Chulkana via Garhi Jhajjara and Bhora in District

Sonipat. On account of a dispute that arose between the parties, an Arbitrator was appointed under Clause 15/A of the contract Agreement No. 61 of 2006-07. State of Haryana filed a claim seeking compensation for delay of completing the work assigned as well as seeking payment on account of getting the work completed through another agency along with 18% interest. On account of no defence being filed by the appellant herein and not attending the arbitration proceedings despite adequate opportunity being given to them an ex parte award dated 27.11.2009 was allowed based on the claim petition that was filed. Aggrieved against the said award, objection petition was preferred before the District Judge, Sonipat on 07.05.2010, which was rejected on the ground that the same had been filed after an inordinate delay of two months and 10 days.

3. Learned counsel appearing on behalf of the appellant herein contends that valid points had been raised before the Objecting Court that the award was a non-speaking one and not in conformity with Section 31(3) of the 1996 Act and without giving a finding on the said contentions raised, the District Judge has dismissed the objections by relying upon a judgment rendered in *N. Balakrishnan Vs. M. Krishnamuthy, 1992(2) RCR (Civil) 578* holding that there is no sufficient ground to condone the delay of two months and 10 days in filing the objection petition and the application for condonation of delay contains no merit therein.

4. Per contra, learned counsel appearing on behalf of the respondent-State contends that the objections were not filed within time since the award was passed on 27.11.2009 and objections were filed only on 07.05.2010.

5. I have heard learned counsel for the parties and with their assistance have perused the pleadings and the case law.

6. It is not in dispute that an ex parte award was passed on 27.11.2009 against the appellant herein and the objections were filed on 07.05.2010. However, it is also not in dispute that a copy of the said ex parte award was served upon the appellant vide memo No. 1198 dated 15.02.2010 with a request to make payment and, therefore, the period of computation of limitation has to be taken when a copy of the award was served upon the appellant as envisaged under Section 31(5) of the 1996 Act. Taking 15.02.2010 as the date from which limitation has to be computed, the objections which were filed on 07.05.2010 were well within the period prescribed under Section 34(3) of the 1996 Act. Therefore, finding that the order of the District Judge is unsustainable, the order is hereby set aside and the matter is remanded back to the District Judge, Sonipat to decide the same on merits.

7. The parties are directed to appear before the District Judge, Sonipat on 07.11.2019.

8. Since the liability of 18% interest has been fastened upon the appellant herein, let the objections be decided as expeditiously as possible.

15.10.2019

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.