

FAO No.2000 of 2015 (O&M) & connected matters.

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

**1. FAO No.2000 of 2015 (O&M)
Date of Decision:19.10.2019**

MANMOHAN SINGH Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS

..... Respondents

2. FAO No.7896 of 2014 (O&M)

GURBAX SINGH Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS

..... Respondents

3. FAO No.1294 of 2015 (O&M)

MANJIT SINGH AND ANOTHER.

...Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS

..... Respondents

4. FAO No.1295 of 2015 (O&M)

UTTAM SINGH (SINCE DECEASED) THROUGH LRs.

...Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS

..... Respondents

5. FAO No.1278 of 2015 (O&M)

TARLOCHAN SINGH Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS

..... Respondents

6. **FAO No.1290 of 2015 (O&M)**
KIRPAL SINGH Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS
..... Respondents

7. **FAO No.1930 of 2015 (O&M)**
GURCHARAN SINGH @ GURBHACHAN SINGH Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS
..... Respondents

8. **FAO No.2816 of 2015 (O&M)**
PARWINDER KAUR Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS
..... Respondents

9. **FAO No.2887 of 2015 (O&M)**
GURNAM SINGH AND ANOTHER Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS
..... Respondents

10. **FAO No.7453 of 2014 (O&M)**
BALWANT SINGH Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS
..... Respondents

11. **FAO No.7454 of 2014 (O&M)**
AJIT SINGH Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS
..... Respondents

12.

FAO No.800 of 2013 (O&M)

KIRPAL SINGH

.... Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS

..... Respondents

13.

FAO No.8136 of 2014 (O&M)

PIARA SINGH

.... Appellant

Versus

GOVERNMENT OF INDIA, NEW DELHI & OTHERS

..... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr.Vivek.K. Thakur, Advocate for the appellants.
Mr.R.S.Madan, Advocate for the respondents.

JAISHREE THAKUR, J.(ORAL)

1. By a common order this Court proposes to dispose of appeals filed under Section 37 of the Arbitration and Conciliation Act, 1996 (the Act of 1996 for short) seeking to challenge the order of District Judge, Jalandhar dated 16.05.2012 whereby objections filed to the award of the Arbitrator stand dismissed.

2. For the purpose of adjudicating these appeals facts are being taken from FAO No.2000 of 2015. Admittedly, the land of the claimants / appellants was acquired by the National Highway Authority of India (NHAI) for the purpose of widening of National Highway No.1-A. The competent authority assessed compensation which was not acceptable to the land owners. Consequently, the said award was challenged before the District Judge, Jalandhar who remanded the matter back and ultimately the Arbitrator who was appointed under Section 3G-(5) of the National Highway Act, 1956 gave his award on 25.07.2011.

3. Aggrieved against the said award, the claimants filed a Regular First Appeal as if filing an appeal against the compensation awarded under the Land Acquisition Act. Registry thereafter, noted and raised objections regarding the very maintainability of the said proceedings in the High Court. The claimants thereafter filed objections under Section 34 of the Act of 1996 against the inadequate compensation allowed by the Arbitrator under the National Highway Authority Act, which were dismissed by the objecting Court primarily on the ground that the objections have been filed beyond the period of limitation.

4. Aggrieved against the said orders of dismissal of objections, the instant appeals have been filed. Learned counsel for the appellants would herein contend that the District Judge, Jalandhar has erred in not giving benefit of Article 14 of the Limitation Act 1963 (Act of 1963 for short) while computing the period of limitation. It is argued that it was on the advice of the counsel who was entrusted with the matter that the award was challenged before the High Court and therefore, the delay in filing of the objections ought to have been condoned by giving the benefits of Article 14 of the Act of 1963 . In this regard counsel relies upon a judgment rendered by the Supreme Court in ***State of Goa Vs. Western_Builders, 2006 Vol-III R.C.R. (Civil) 475*** wherein in a similar situation, the Supreme Court has held that the Arbitration and Conciliation Act, 1996 does not expressly exclude the applicability of Article 14 of the Act of 1963 while further holding that if a statute is silent and there is no specific prohibition to the application of Limitation Act to a statute then benefit ought to be given which would advance the cause of

justice. It was argued that the Arbitrator has not given the correct compensation for which the claimants would be entitled to.

5. *Per contra*, Mr. R. S. Madan learned counsel appearing on behalf of respondents herein would contend that there is no infirmity with the orders as passed by the District Judge, Jalandhar as the objections filed under Section 34 of the Act of 1996 were correctly dismissed, being beyond the period of limitation. In this regard he would rely on judgement rendered in ***Union of India Vs. Popular Construction Co. 2002(1) RCR (Civil) 124*** wherein the provision of section 34(3) of the Act of 1996 have been interpreted by holding that objections to an award have to be filed within a period of 03 months and a maximum period of 30 days can be allowed if an appropriate application is filed giving sufficient cause as to why the objections were not filed within a period of 03 months. It was also argued that the award which is sought to be challenged by the appellants herein is in any case not justifiable since the Arbitrator has not given cogent reasons for allowing the compensation as assessed. It is argued that the reading of the award itself would show that the Arbitrator has allowed compensation without any evidence or sale deeds being produced on the record. He has also pointed out other infirmities in the award itself.

6. Be that as it may, this Court is faced with the question whether the benefit of Article 14 of the Act of 1963 ought to have been allowed by the District Judge, Jalandhar in computing period for filing of the objections.

7. It would be pertinent to note a few dates to arrive at just conclusion whether or not the objections have been filed within the

period of three months extendable by a period of 30 days as allowed by the proviso in Section 34 of the Act of 1996. Admittedly, an initial award was passed by the Arbitrator which was remanded back by the Objecting Court under section 34 of the Act of 1996. Subsequently, a fresh award was passed on 25.07.2011 after the matter had been remanded back. The claimants applied for the certified copy of the said order on 12.08.2011 and the same was supplied to them on 8.9.2011 and thereafter Regular First Appeal was filed in the High Court on 20.10.2011, meaning thereby a period of one month 11 days was consumed in filing of the Regular First Appeal. The Regular First Appeal was filed in the High Court on 20.10.2011 and objections were raised by the Registry pertaining to the maintainability of the Regular First Appeal on 09.11.2011, subsequent to which objections were filed by the claimants-landowners before the District Judge on 23.02.2012, which stood dismissed. Learned Counsel appearing on behalf of the appellants herein would contend that they were never informed about the objections as raised by the Registry in time. The information was given to them by their counsel on 20.01.2012 and therefore immediately the objections were filed. It is therefore, pleaded that if benefit of Article 14 of the Act of 1963 is allowed to them, the objections would have been within the period of limitation .

8. *Per contra*, Mr.R.S.Madan, Advocate also argues that once objections have been raised by the Registry, that is the date that would have to be taken for computing the period of limitation. It is also argued that the plea as taken by the counsel for the appellants seeking benefit of Article 14 of the Act of 1963 by contending that the counsel had not informed them can not be sustained in view of the law as settled in

Bhagwana Vs. Tara Chand 2008 (Vol-II) PLR page 73, wherein it has been held that it is also the duty of litigant to be vigilant in his own case and not plead negligence on the part of the Advocate.

9. I have heard both the counsel for the parties and the sole question the court is faced with is as to whether District Judge has erred in dismissing the objections being time barred. On perusal of dates as supplied above, it is apparent that the award was passed on 25.07.2011 and a certified copy was applied for 12.08.2011, whereby 17 days have been consumed out of total of 03 months as available under Section 34 (3) of the Arbitration Act of 1996. After the certified copy was made available on 08.09.2011, the appeal came to be filed on 20.10.2011 meaning thereby another period of one month 11 days had been consumed, therefore when the appeal had been filed in the High Court, period of one month 28 days had already lapsed by then. The objection was raised by the Registry on 9.11.2011 and the objections under Section 34 of the Act of 1996 were filed on 23.02.2012; that is also after a period of 03 months and 13 days. In totality even if benefit under Article 14 of the Act of 1963 is given,(which is permissible as held in ***Consolidated Engg. Enterprises v. Principal Secy. Irrigation Deptt. 2008(2) RCR 897 and State of Goa Vs. Western Builders, reported 2006 Vol-III R.C.R (Civil) 475***) this Court is of the opinion that the objections filed by the appellant under section 34 of the Act of 1996 were clearly barred by limitation as there was a delay of one month and 11 days.

10. The law as settled in ***Union of India Vs. Popular Construction Co. 2002(1) RCR (Civil) 124*** which was subsequently

followed in the judgement as rendered in *M/s Simplex Infrastructure Ltd. Vs. Union of India 2019(1) R.C.R. (Civil) 205* is clear that the period of limitation for filing objections is three months which is extendable by 30 days on giving of sufficient reasons, and *not thereafter*. The statute also prohibits the court from entertaining such an application.

Therefore, applying the ratio of the afore cited judgement, this court finds no infirmity with the order so impugned.

11. All the thirteen appeals of the landowners/claimants are accordingly dismissed.

(JAISHREE THAKUR)
JUDGE

19.10.2019
raman

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No

