

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

FAO No.7629 of 2014 (O&M)

Date of Decision.04.12.2019

Rajpal Madan

...Appellant

Vs

Amritsar Improvement Trust

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rajinder Sharma, Advocate
for the appellant.

Mr. Karanjit Singh, Advocate
for the respondent.

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JAISHREE THAKUR J. (ORAL)

1. This is an appeal that has been filed under Section 37 of the Arbitration and Conciliation Act, 1996 seeking to challenge the order dated 22.07.2014 passed by the Additional District Judge, Amritsar whereby the Additional District Judge on an application filed under Section 34 of the Arbitration and Conciliation Act, 1996 has set aside the award of the Arbitrator dated 31.08.2009 and remanded the matter back to the Arbitrator for a fresh decision.

2. Learned counsel appearing on behalf of the appellant raised twofold contentions, namely, that the objections were time barred and as such, the objections ought not to have been entertained at the first instance, as also submits that the Additional District Judge did not have jurisdiction to remand the matter to the Arbitrator for a fresh decision.

3. Admittedly, the Amritsar Improvement Trust, respondent herein, in an auction had allotted a plot to the appellant. The auction was held on 25.04.1977 and the appellant herein paid an amount of ₹9336/- as

far back as 1977 against the plot price of ₹37,332/-. The balance amount was to be paid in six half yearly installments in the months of April and November and the entire amount was to be cleared by December, 1980. A dispute arose between the parties regarding the delay in allotment of the plot and the question of interest amongst other issues. Consequently, an Arbitrator was appointed to settle the dispute, who gave his award on 31.08.2009. The award was subsequently challenged by the Amritsar Improvement Trust before the Additional District Judge, Amritsar, which was contested. The Additional District Judge by the impugned order set aside the award of the Arbitrator and remitted the matter back to pass a fresh decision in accordance with law, after giving due opportunities of hearing to the parties.

4. The record would reveal that the respondent-Trust had filed an application under Section 5 of the Limitation Act seeking condonation of delay in filing the said objections, which has not been dealt with by the Additional District Judge in its true perspective. Section 34(3) of the Act of 1996 provides a period of limitation for a party, who approaches by way of an application to challenge the award. As per Section 34(3), the award has to be challenged within a period of three months from the date of receipt of signed copy of the award, which period may be extended for another period of 30 days, if the party challenging the award is able to show sufficient cause for not preferring the objections/application within time. The law in this regard is well settled and reference can be made to the judgment rendered in **Union of India Vs. M/s Popular Constructions Co. 2002 (1) RCR (Civil) 124.** Further in the judgment rendered by the Hon'ble Supreme Court in **M/s Simplex Infrastructure Ltd. Vs. Union of India 2019 (1)**

RCR (Civil) 205, it has clearly been held that objections can be filed within a period of three months from the date of receipt of the award and if there is sufficient cause shown, can be filed within a further period of 30 days but not thereafter. In the instant case, admittedly, the award was received on 01.11.2010 as would be substantiated by the reply to the application seeking condonation of delay. The award was received in the office and diaried at Sr. No.7034. Consequently, the period of limitation would commence from the date on which copy of the award was received in office and admittedly, the objections have been filed on 26.07.2011 well beyond the period of three months and 30 days as allowed by the 1996 Act.

5. Even otherwise, the Additional District Judge, Amritsar erred in remanding the matter to the Arbitrator to take a fresh decision against the judgment as rendered in **Kinnari Mullick and another Vs. Ghanshyam Das Damani 2017 (3) RCR (Civil) 251**, subsequently followed in **Radha Chemicals Vs. Union of India 2019 (1) ACJ (SC) 330** wherein it has clearly been held that the Additional District Judge while deciding objections under Section 34 has no jurisdiction to remit the matter back for a fresh decision.

6. In view of the settled law, this Court finds merit in the appeal so filed and sets aside the order of the Additional District Judge remanding the matter back to the Arbitrator for a fresh decision. The appeal is allowed.

(JAISHREE THAKUR)
JUDGE

December 04, 2019
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No