

FAO-9069-2014 (O&M)

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

FAO-9069-2014 (O&M)

Date of Decision: April 30, 2019

Amar Chand Sharma

Appellant

Versus

Punjab State Cooperative Bank Limited and Anr.

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vishal Gupta, Advocate
for the appellant.

Ms. Rajni Gupta, Sr. DAG, Punjab.

Mr. Pritam Saini, Advocate
for respondent No.1.

JAISHREE THAKUR, J. (Oral)

The instant FAO has been filed seeking to challenge the order dated 06.11.2013 whereby the objection petition filed by the appellant herein under Section 34 of the Arbitration and Conciliation Act, 1996 for setting aside the award of the Arbitrator dated 07.04.2006 has been dismissed on the limited point that the said objections had been filed beyond the period of limitation.

Admittedly there was an agreement entered into between the appellant and respondent No.2 dated 04.07.1995 for consideration of a building in Sector 34, Chandigarh on account of a dispute that arose between the parties. The matter was referred to the Arbitrator who gave his award dated 07.04.2006. It is against that award that objections were filed

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before the Additional District Judge, Chandigarh who dismissed the said objections by holding that the same had been filed beyond the period of three months and that too without an application for condonation of delay. Aggrieved against the said order, the instant appeal has been filed.

Learned counsel appearing on behalf of the appellant contends that the award was pronounced on 14.03.2006 in open Court, however, was reduced in writing on 07.04.2006, as would be evident from the award itself. The award was sent by registered post on 17.04.2006 and received by the appellant on 20.04.2006 and, therefore, the period of limitation would expire on 20.07.2006. It is contended that the objections under Section 34 of the Arbitration and Conciliation Act, 1996 was filed on 18.07.2006 as would be evident from the stamp of the Superintendent (Judicial)/Sr. Asstt. reflected on page 79 of the record i.e. the objections filed in original.

Per contra, learned counsel appearing on behalf of respondent No.1 vehemently urges that the instant appeal should not be entertained since the objections were filed beyond a period of limitation and that too without any application for condonation of delay. It is also argued that the instant appeal itself was filed beyond the period. Appeal in the High Court was filed with a considerable delay of more than 300 days and that too without notice, and, therefore, this Court ought not to interfere in the orders so passed.

I have heard learned counsel for the parties and perused the record which was summoned. Admittedly the award between the parties was passed on 07.04.2006 as would be evident from the award itself. A perusal of the record would reflect that the award was dispatched to the appellant herein on 17.04.2006 by respondent No.2 and was received by him on

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20.04.2006. The period of limitation to file the objections under Section 34 of the Arbitration and Conciliation Act is 03 months and in case there is a delay in filing the objections beyond the period of 03 months, the same can be filed within a period of 30 days thereafter with an application for condonation of delay.

However, in the instant case, the objections were filed on 18.07.2006 well within the period of 03 months and therefore there was no necessity for the appellant herein to have preferred application seeking condonation of delay in filing the said objections. The period of 'three months' under Section 34(3) has been defined in a judgment rendered in the '*State of Himachal Pradesh and Anr. vs. Himachal Techno Engineers and Anr*' to mean an actual period of calendar months and not restricted to mean 90 days. This Court is of the opinion that the objections had been filed well within the period of limitation and therefore, the order of the Additional District Judge is not sustainable and is hereby set aside.

Let this matter be remanded back to the Addl. District Judge to decide the matter on merits preferably within a period of four months on receipt of certified copy of this order. The summoned record is also sent back.

Appeal stands disposed of accordingly.

April 30, 2019
seema

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No