

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

FAO No.1402 of 2020(O&M)

Date of decision: 24.2.2020

Haryana State Electricity Board

.....Appellant

VERSUS

Balwant and others

.....Respondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Ankit Midha, Advocate for the appellant.

REKHA MITTAL, J.

CM No.4173-CII of 2020

Heard.

Allowed as prayed for.

Delay of 8 days in filing the appeal stands condoned.

Disposed of accordingly.

Main Case

Challenge in the present appeal has been directed against order dated 29.10.2019 passed by the Additional District Judge, Kaithal whereby application seeking condonation of delay of 1368 days in filing the application under Order 9 Rule 13 of the Code of Civil Procedure, 1908 (in short 'Code') for setting aside the order dated 22.12.2014 and award dated 12.03.2015 passed in LA Case RST No.02 of 1996 has been dismissed. A relevant extract from the impugned order reads as follows:-

“This Court has paid thoughtful consideration to the rival contentions, apart from perusing the record carefully. The facts described in paras Nos.2 & 3, above need to be

recapitulated. All the four Departments/Nigams arising out of disintegration of parent department (HSEB Haryana) in year 1998-99, work in close co-ordination with each other and especially with HVPNL. The proceedings before Hon'ble High Court in RFA Nos.2331, 2333, 2403 and 2551 disposed of vide order dated 25.08.2014, reflect that representatives of HSEB was duly perusing/contesting the RFAs before Hon'ble High Court. Even otherwise, the State representatives was duly present on the date of passing of Order dated 25.08.2014 (supra), whereby parties through their counsels were directed by Hon'ble High Court to appear before the learned Reference Court at Kaithal, on 20.09.2014. It is an admitted fact that notice of Reference after the revival before the then learned Reference Court, Kaithal was duly served upon the official/s of UHBVN. In the present execution application also, notices were served upon officials of UHBVN and were conveyed by them, to the official of HVPNL. Likewise, notices of before-mentioned references should also have been conveyed to HVPNL. Even otherwise, it was duty of HVPNL (i.e. present applicant- Nigam) to keep pace with the direction of Hon'ble Punjab and Haryana High Court, as passed vide order dated 25.08.2014 (supra). It is essential to mention that the land-owners of Award No.5 (supra) are craving for the financial relief, since 1994, when the initial award was passed. As such, the applicant Nigam can not be allowed to make the land owners suffer for the own fault of applicant- Nigam

itself. As such, this Court fails to derived any merits in the instant application. The same is dismissed, along with the application under Order IX Rule 13 of CPC (supra).”

Counsel for the appellant has failed to advance any arguments much less convincing that the order impugned suffers from a legal or factual flaw that would call for intervention. That being so, I do not find any reason to intervene in exercise of extraordinary jurisdiction of the Court.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

FEBRUARY 24, 2020

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no