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

**ARB No.354 of 2018 (O&M)
Date of Decision: 17.11.2022**

**JANGLA COOPERATIVE L&C SOCIETY LIMITED
.....Petitioner**

Vs

**SUPERINTENDING ENGINEER AMRITSAR DRAINAGAE
DIVISION AMRITSAR AND ORS
.....Respondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Dheeraj Mahajan, Advocate
for the petitioner.

Ms. Akshita Chauhan, D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

The petitioner has preferred this petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as 'the Act') for the appointment of an independent Arbitral Tribunal to adjudicate the dispute between the parties arising out of work agreement namely 'plugging/gap of Rajband RD47000 main-FPE from RD15800-1880 left side river Ravi'.

The grievance of the petitioner is that despite successful execution of work to the satisfaction of the authorities, due payments have not been released to the petitioner. Only three running payments to the extent of

Rs.13,79,947/- were released. The petitioner was entitled to the original cost of work to the tune of Rs.37,61,262/- along with interest for the delayed payment from the date of completion till the date of realisation of the amount, but the respondents only paid an amount of Rs.13,79,947/-.

The pleadings of the petitioner in terms of sub-para (d) of Para 2 do not pin point the date of payment of Rs.13,79,947/. The subsequent paragraphs are only in the context of serving legal notice on 20.12.2016 and intra-departmental communications made between the officers of the respondents.

In view of para 10 of the preliminary objections in the reply filed by the respondents, the gross payment of Rs.13,79,947/- was accepted by the petitioner in the year 2001. The respondents have shown this payment with reference to Annexure R-4.

The petitioner has not controverted the aforesaid document by filing any rejoinder to the petition. Payment of Rs.13,79,947/- has not been denied by the petitioner that too in the year 2001. Thereafter the petitioner got issued the legal notice only on 20.12.2016 i.e. after a period of 15 years. Delay of 15 years has not been explained by the petitioner except to allege that in view of non-preparation of final bill. The cause of action was recurring enough to be raised at any point of time.

This Court is not in a position to comprehend the arguments as regards the recurring cause of action in favour of the petitioner. The petitioner remained mum for more than 15 years after receiving payment of Rs.13,79,947/- in the year 2001. The Court must undertake a primary first review to weed out manifestly *ex facie* time barred claim of the petitioner. The *prima facie* review at the reference is to cut the deadwood where dismissal is bare faced and pellucid and when on the facts and law the litigation must stop at the first stage.

In view of total silence on the part of the petitioner for more than 15 years after 2001, this Court has no doubt that the claim of the petitioner is *ex facie time* barred and the Court should decline to make reference. Consequently, this petition stands dismissed.

November 17, 2022	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No