

Civil Revision No. 2366 of 2022

[1]

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

Civil Revision No. 2366 of 2022

Date of decision: 13th February, 2023

Dhan Singh Malik

Petitioner

Versus

Haryana State Agricultural Marketing Board & another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Veena Hooda, Advocate for the petitioner.
Mr. Prateek Mahajan, Advocate for the respondents.

AVNEESH JHINGAN, J (Oral):

This revision petition is filed aggrieved of order dated 10.3.2022 dismissing the application for restoration of the objections filed under Section 34 of the Arbitration & Conciliation Act, 1996 (for short, 'the Act').

The brief facts are that the petitioner was allotted work for construction of road from village Jamalpur Chander to Bhodi. The general terms and conditions provided for dispute resolution through arbitration. There was a dispute between the parties. The arbitration proceedings culminated in award dated 13.3.2019. Aggrieved of the award, objections under Section 34 of the Act were filed. The objections were dismissed for non-prosecution on 12.2.2020 as notice in the application could not be issued for non-filing copy of the application, in spite of granting repeated opportunities. Prayer for restoring the objections was accompanied by an

application for condonation of delay. The request restoration was rejected on 10.3.2022, hence the present petition.

Learned counsel for the petitioner submits that the petitioner had engaged a counsel, paid the fee but due to his conduct the objections were dismissed for non-prosecution. She further submits that on gaining knowledge, application for restoration of the objections was filed.

Learned counsel for the respondents opposes the prayer made in the petition and submits that the conduct of the petitioner shows that delaying tactics were being adopted by the petitioner. He further submits that even the application for restoration was filed after a period of one year and seven months.

It is trite law that party should not be made to suffer due to non-action or omission of his counsel. Reference in this regard can be made to the decision of the Supreme Court in ***Rafiq and another v. Munshilal and another, AIR 1981 SC 1400.***

The objections under Section 34 of the Act were dismissed for non-prosecution. The petitioner was deprived of a statutory remedy due to the conduct of the counsel. To balance the equity, the order dated 10.3.2022 dismissing the application for restoration of the objections and order dated 12.2.2020 dismissing the objections for non-prosecution are set aside subject to payment of costs of Rs.10,000/- to the respondents. The matter is remanded back to the court concerned for deciding the objections under Section 34 of the Act.

The parties are directed to appear before the court concerned on 20.3.2023.

Considering that the objections under Section 34 of the Act were filed in 2019, it would be desirable that the court concerned will make an endeavour with the cooperation of the parties to decide the objections under Section 34 of the Act expeditiously.

The revision petition stands disposed of.

13th February, 2023

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[AVNEESH JHINGAN]

JUDGE

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No