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2023:PHHC:043341

2023:PHHC:043348

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

Date of Decision: 21st March, 2023

1. **FAO-2405-2021**

Karamvir and others

... Appellants

Versus

Competent Authority-cum-D.R.O. and another

... Respondents

2. **FAO-2898-2021**

Ram Wati and others

... Appellants

Versus

Competent Authority-cum-D.R.O. and another

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. S.K. Yadav, Advocate for the appellants.

Mr. Sudhir Nar, Senior Panel Counsel for Union of India.

Mr. Sharad Aggarwal, Assistant Advocate General, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. These appeals are being decided by one order as the issue involved is similar. For convenience, the facts are being taken from FAO-2405-2021.

2. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') is filed aggrieved of dismissal of objections under Section 34 of the Act as time barred.

3. The brief facts are that the land of the appellants was acquired for the purpose of Railway Freight Corridor. The issue of determination

culminated in award dated 28th April, 2018. The objections filed by the appellants were dismissed on 15th March, 2021.

4. The undisputed facts are that the award is of dated 28th April, 2018, the certified copy was supplied to the appellant on 10th May, 2018 and the objections were filed on 8th August, 2018 i.e. within ninety days of receipt of the certified copy.

5. The objections were dismissed by calculating the limitation from the date of pronouncement of the award.

6. As per Section 31(5) of the Act, the arbitrator is obliged to supply the signed copy of the award to the parties. As per Section 34(3) the limitation starts from the receipt of copy of the order. The Additional District Judge, erred in dismissing the objections as time barred by calculating the limitation from the date of pronouncement of the award and not from receipt of copy of award.

7. The impugned order is set aside and matter is remitted back to the court concerned to decide on merits.

8. Before concluding it is appropriate to note that *inspite* of dismissing the objections as time barred, the Court concerned proceeded to decide the case on merits which cannot be upheld in view of the decision of Supreme Court in **S.V. Matha v. Lal Chand Meghraj and others, (2007) 14 SCC 722:-**

“We, however, feel disinclined to go into the merits of the controversy, as we are of the opinion that the Division Bench ought to have confined its decision only to the question dealt with by the learned Single Judge viz. the question of limitation. The Division Bench has dealt with the issue of limitation in paragraphs 18 and 19 of the impugned judgment and from a reading thereof, we observe that

Application Nos. 1106-1108/2000 filed by the assignees in which notice had been issued on 19.4.1999 for 10.6.1999 by the Master were dismissed by the learned Single Judge by order dated 3.7.2000 without notice to the applicants i.e. the assignees. In this situation, the Division Bench was justified in holding that the order of the learned Single Judge was not sustainable. The learned counsel for the appellant, has, however, urged that no particulars had been spelt out in the application justifying the condonation of a delay of 971 days. We are of the opinion, however, that the applicants have explained the delay and we accordingly endorse the observations of the Division Bench on this aspect. As noted above, the learned Single Judge had dismissed the applications by order dated 3.7.2000 wholly on the ground of limitation. By the impugned judgment, the Division Bench has not only condoned the delay but taken a decision on merits as well. We are of the opinion that the second exercise was not justified as the only issue before the Division Bench was the question of limitation. We, accordingly, set aside the judgment of the Division Bench to the extent that it goes on to the merits of the controversy but maintain it in so far that it deals with the question of limitation. Ipso facto the matters are restored to a re-hearing on merits.”

9. Needless to say that the court concerned shall decide the objections under Section 34 of the Act without being influenced by observation made in the impugned order on the merits of the case.

10. A photocopy of this order be placed on the file of connected case.

(AVNEESH JHINGAN)
JUDGE

21st March, 2023
Parveen Sharma

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No