

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 1718 of 2016 (O&M)
Date of decision: 18th April, 2023

Amarjit Singh

Appellant

Versus

TATA Motors Finance Ltd. and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Naresh Prabhakar, Advocate for the appellant.
Mr. Vijiyesh Malhotra, Advocate for
Mr. Sandeep Suri, Advocate for respondent No. 1.

AVNEESH JHINGAN, J (Oral):

1. 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.

2. The relevant facts are that the appellant on 28.9.2012 availed loan facility of Rs.3,00,000/- from respondent No. 1 (hereinafter referred to as 'the respondent') for purchasing a vehicle. The loan was to be repaid in 47 monthly installments. The appellant defaulted in repayment and arbitration proceedings were initiated at the instance of the respondent. The proceedings culminated in an *ex parte* award dated 15.9.2014. The objections filed by the appellant were dismissed on 2.9.2015, hence the present appeal.

3. Learned counsel for the appellant submits that no notice was served on the appellant by the arbitrator.

4. Learned counsel for the respondent supports the award and the impugned order. He submits that notices were sent under the registered cover to the appellant and he chose not to appear.

5. The Additional District Judge while dismissing the objections recorded a finding that from the arbitral record it is evident that notices through registered post were despatched to the appellant and were not received back un-served.

6. Before proceeding further, it would be relevant to analyse Section 27 of the General Clauses Act, 1897 (for sort, 'GC Act'). Section 27 is reproduced below:

“27. Meaning of service by post.-Where any Central Act or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression “serve” or either of the expressions “give” or “send” or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.”

7. Section 27 of the GC Act deals with service by post. The term 'any other expression' used in the section widens the ambit of the Section. There is presumption of service of a document, if it is posted by registered post, after pre-paying, properly addressing and containing the document.

8. There is no quarrel on the proposition that presumption of service of the document is rebuttable. The onus lies upon the party denying

receipt of a document. Reference in this regard is made to the decisions of the Supreme Court in *Sunil Kumar Sambhudayal Gupta and others v. State of Maharashtra, 2011(2) SCC (Crl.) 375* and *Parimal v. Veena @ Bharti, 2011(3) SCC 545*.

9. It would be apposite to note that in objections under Section 34 of the Act as well as in the grounds of appeal before this court, there is no attempt to rebut the presumption invoked against the appellant under Section 27 of the GC Act. A bald statement is made that the appellant was not served with the notices.

10. Considering that there is presumption of service of notices on the appellant which remains un-rebutted, no interference under Section 37 of the Act is called for in the impugned order.

11. The appeal is dismissed.

12. Since the main appeal has been dismissed, pending application, if any, is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

18th April, 2023
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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No