

FAO No. 6208 of 2018 and connected matter [1]

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision: 15th May, 2023

(1) FAO No. 6208 of 2018

Fateh Singh (since deceased) through his legal heirs

Appellant

Versus

Shri Ram Transport Finance Co. Ltd. and another

Respondent

(2) FAO No. 6604 of 2018

Sukhbir Singh

Appellant

Versus

Shri Ram Transport Finance Co. Ltd. and another

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ravinder Rana, Advocate for
Mr. Vivek Khatri, Advocate for the appellant.
Mr. Gaurav Sharma, Advocate for respondent No. 1.

AVNEESH JHINGAN, J (Oral):

1. This order shall dispose of the above mentioned two appeals as the facts and issue involved are similar. The facts are being considered from FAO No. 6208 of 2018.

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.

3. The brief facts are that the on 31.5.2010, the appellant availed loan of Rs.6,00,000/- from the respondent No. 1 (hereinafter referred to as

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'the respondent') for purchase of a vehicle. The loan was to be paid in 37 monthly installments. The appellant defaulted in repayment of loan. The arbitration initiated at the instance of the respondent culminated in award dated 13.3.2014. The objections filed by the appellant were dismissed on 9.12.2016. Hence, the present appeal.

4. The contention raised on behalf of learned counsel for the appellant is that the notice issued by the arbitrator was not served upon the appellant.

5. Heard learned counsel for the parties and perused the record.

6. It is not disputed that the notice to the appellant was sent through registered post. The postal receipt was exhibited as Ex. R5. The copy of the notice sent was proved as Ex.R4. The address on the registered letter was correct.

7. Section 27 of the General Clauses Act, 1897 (for short, 'GC Act') 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, prepaying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at

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the time at which the letter would be delivered in the ordinary course of post.”

8. Section 27 of the GC Act deals with service by post. There is presumption of service of a document, if it is posted by registered post, after pre-paying, properly addressing and containing the document. There is no quarrel on the proposition that presumption under Section 27 of the GC Act is rebuttable.

9. Neither there is any pleading in the appeal nor averment made rebutting the presumption invoked under Section 27 of the GC Act.

10. In such circumstances, no interference is called for.

11. The appeals are dismissed.

12. Since the main appeals have been dismissed, pending application(s), if any, is rendered infructuous.

12. Photocopy of the order be placed on the file of connected case.

[AVNEESH JHINGAN]
JUDGE

15th May, 2023

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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No