

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

FAO-10750-2018 (O&M)

Date of Decision: 13th March, 2023

Sadhu Ram

... Appellant

Versus

Sh. MS Rohilla, Sole Arbitrator and others ... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Tarunveer Vashisth, Advocate for the appellant.

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 as time barred.

2. The facts in brief are that Shamsheer Singh and Maru Ram availed loan facility of rupees ten lakhs from respondent No.2 (bank) for purchase of JCB machine and the appellant was the guarantor. The loan was to be repaid in thirty four equal monthly installments. The borrower defaulted in repayment and arbitrator was appointed at the instance of bank. Arbitration proceedings culminated into award dated 4.7.2013. Aggrieved of the award passed, the appellant filed application under Section 34 of the Act on 19.11.2015. The objections were dismissed as time barred. Hence, the present appeal.

3. Learned counsel for the appellant submits that the award is nullity as it was passed against the dead person.

4. From the perusal of the pleadings, it is forthcoming that it is not the case of the appellant that the copy of the award was not received. It has not been disclosed as to when the copy of the award was received. On a specific query from learned counsel for the appellant, it is not disputed

that objections were filed along with copy of the award. The information in exclusive knowledge of the appellant has been withheld. The order dismissing objections as time barred suffers from no illegality or factual error.

5. There is no dispute on the proposition of law that Section 5 of the Limitation Act, 1963 has no applicability for condoning the delay in filing the objections under Section 34 of the Act. Reference in this regard has been made by this Court in '*Union of India vs. M/s. Popular Construction Co. AIR 2001 SC 4011*' and '*M/s. Consolidated Engg. Enterprises vs. Principal Secy. Irrigation Deptt. and others, (2008) 7 SCC 169.*'

6. The issue on merits cannot be raised in the appeal under Section 37 of the Act when the objections under Section 34 of the Act have been dismissed as time barred.

7. No case is made out for interference under Section 37 of the Act.

8. Appeal is dismissed.

9. Since the main case has been dismissed, pending application(s), if any is rendered infructuos.

(AVNEESH JHINGAN)
JUDGE

13th March, 2023

anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No