



CR No. 1585 of 1994 (O&M)

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

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CR No. 1585 of 1994

Date of decision : 08.05.2024

State of Punjab

... Petitioner

Vs.

M/s Godama Laboratories and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Amrita Garg, AAG, Punjab
for the petitioner.

None for the respondents.

SUVIR SEHGAL J.

1. By way of instant revision petition, State has approached this Court under Section 115 CPC for setting aside judgment dated 14.05.1993 passed by the learned Additional District Judge, Chandigarh and judgment dated 05.12.1990, passed by the learned SJIC, Chandigarh, whereby application filed by it for making the award, rule of the Court, has been dismissed.

2. In a nutshell, the facts leading to the filing of the petition are that a dispute between the parties was pending for determination before the Arbitrator/respondent No.4 and the time period for making the award



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expired. On an application filed by one of the parties, the court extended the time for making of the award by period of four months vide order dated 01.06.1987. The award was announced on 08.10.1987 in favour of the petitioner. An application was filed for filing of the award and for making it a rule of the Court.

3. Upon being served, the respondents filed separate objection petitions under Sections 30 and 33 of the Arbitration Act, 1940 (for short 'the Act') *inter alia* taking the plea that the claim was time barred and that the Arbitrator has misconducted himself in not deciding the plea regarding limitation. It was also claimed that the Arbitrator did not consider the written statement filed by them. The respondents sought setting aside of the award on the ground that it has been given beyond the prescribed period of limitation. State filed its reply to the objection petition. On the basis of the pleadings, issues were framed. After the parties led evidence and they were heard, learned SJIC, Chandigarh by impugned judgment dated 05.12.1990 accepted the objection petitions and set aside the award. State remained unsuccessful before the Appellate Court and the appeal was rejected vide judgment dated 14.05.1993. Challenging both these judgments, State is before this Court by way of present petition.

4. State counsel has argued that the period of four months is to be calculated from the date, the order of the court extending time was received by the Arbitrator. She submits that the Arbitrator sent a communication dated 26.06.1987 to the parties informing them that his



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term has been extended. While referring to Section 28 of the Act, she has urged that even if the award is made beyond the extended period of time, the Court has ample power to extend the time. She has placed reliance upon the judgment of the Supreme Court in ***Jatinder Nath Versus M/s Chopra Land Developers Pvt. Ltd.*** (2007) 11 SCC 453 and judgment of the Madras High Court in ***Tamil Nadu Water Supply Drainage Board and another Versus VNV Constructions and others***, 2008(4) Arbi Law Reporter 604.

5. I have heard the State counsel and considered her submissions.

6. No doubt the period of four months extended by the Court vide order dated 01.10.1987 has to be counted from the day, the copy of the order is received by the Arbitrator. However, the State counsel has not been able to refer to the arbitral proceedings to give a specific date, when the order was received by the learned Arbitrator. She has made reference to the observations in the impugned judgment passed by the learned Additional District Judge, Chandigarh, which shows that the Arbitrator had addressed a communication dated 26.06.1987 to the parties informing them about the extension of time period. However, she has not been able to produce the communication nor is it available on the record. Therefore, this argument of the State counsel cannot be accepted.

7. Section 28 of the Act, came up for interpretation before the Supreme Court in ***Jatinder Nath's*** case (supra) and it was held that the Court has ample powers in a given case to extend the time and give life to the vitiated award by exercising judicial discretion under Section 28 of



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the Act. It was further held that power given to the Court under this statutory provision is so wide that it can extend the time even if the award is made beyond four months from the date of the Arbitrator enters upon the reference. This judgment has been followed by the Madras High Court, which has been relied upon by the State Counsel.

8. In ***State of Punjab Versus Hardyal***, 1985(2) SCC 629, Supreme Court held as under:-

"14. The policy of law seems to be that the arbitration proceedings should not be unduly prolonged. The arbitrator therefore has to give the award within the time prescribed or such extended time as the Court concerned may in its discretion extend and the Court alone has been given the power to extend time for giving the award. As observed earlier, the court has got the power to extend time even after the award has been given or after the expiry of the period prescribed for the award. But the court has to exercise its discretion in a judicial manner. The High Court in our opinion was justified in taking the view that it did. This power, however, can be exercised even by the appellate court. The present appeal has remained pending in this Court since 1970. No useful purpose will be served in remanding the case to the trial Court for deciding whether the time should be enlarged in the circumstances of this case. In view of the policy of law that the arbitration



proceedings should not be unduly prolonged and in view of the fact that the parties have been taking willing part in the proceedings before the arbitrator without a demur, this will be a fit case, in our opinion, for the extension of time. We accordingly extend the time for giving the award and the award will be deemed to have been given in time."

9. Following the principles enunciated by the Supreme Court, this Court in ***State of Haryana and another Versus Krishan Chand***, 2002(49) Arbi LR 61, has held that the time for making the award can be extended by the High Court. The parties have been willingly participated before the Arbitrator and there was never any protest by them. Even after the arguments were concluded, the parties appeared on the date when the award was announced and there is nothing to show that any objection was raised by the either of the parties to announcement of the award. This Court held that even if the Appellate court has not exercised the power to extend time, it would be a fit case for extension of time as the delay appears only to be of one month.

10. Insofar as the facts of the present case are concerned, the time to announce the award was extended by the trial Court and the award was to be announced on or before 01.10.1987. However, the award came to be announced on 08.10.1987 i.e. after a period of 7 days. This revision petition has remained pending before this Court for the last three decades and sending it back to the trial court or the appellate court would not serve any purpose as the award in question was announced more than



three and a half decades back. Applying the principles as laid down in the judgments noticed above, this Court extends the time for making of the award till the date of its announcement on 08.10.1987.

11. Both the courts below have not examined the objections filed by the respondents on merits. The impugned judgments have been passed simply by noticing that the award has been made after the extended period of limitation. Therefore, it would be in fitness of things that by setting aside the impugned judgments, the matter is remitted to the trial Court to re-hear and decide the objections on merits, in accordance with law.

12. Accordingly, revision petition is allowed. Impugned judgments passed by the Courts below are set aside. Matter is remitted to the trial Court to hear and decide the objections afresh by giving the parties an opportunity to lead any further evidence, if they so desire. Trial Court shall proceed further in accordance with law.

13. Parties are directed to appear before the trial Court on 17.07.2024.

08.05.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No

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