



FAO-5172-2019 (O&M)

-1-

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

(222)

FAO-5172-2019 (O&M)
Date of decision:- 15.10.2024

State of Punjab

... Appellant

Versus

M/s Rama Krishna Co-operative Society Ltd. and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Brijesh, Assistant Advocate General, Punjab
for the appellant.

Ms. Rashika Bansal, Advocate
for the respondent No.1.

SUVIR SEHGAL, J. (ORAL)

1. Instant appeal has been filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short “the Arbitration Act”) assailing order dated 22.11.2016 passed by the Court of learned Additional District Judge, Amritsar, whereby objections filed by the appellant to the award dated 21.04.2014 have been dismissed.

2. Facts leading to the filing of the appeal are that respondent No.1 was awarded work of improvement and construction of retaining wall, green belt and footpath in Beas Town in District Amritsar vide letter dated 12.03.1993. Respondent No.1 raised a dispute under Arbitration Clause 25-A of the agreement, which had been entered into between the parties, claiming non-

**FAO-5172-2019 (O&M)****-2-**

payment of final bill of Rs.2.80 lacs along with interest. Matter was referred to an Arbitrator, who passed award dated 21.04.2014 granting Rs.9,13,809/- to respondent No.1 along with interest. Appellant filed an objection petition under Section 34 of the Arbitration Act along with an application under Section 5 of the Limitation Act, 1963 for condonation of delay in filing the objections, which have been rejected by the learned Additional District Judge, Amritsar vide order impugned herein.

3. State counsel submits that upon receipt of a copy of the award, it was sent by the Superintending Engineer to the Executive Engineer vide letter dated 23.04.2014, who referred it to the Deputy Commissioner, Amritsar. He submits that by letter dated 11.06.2014, Deputy Commissioner, Amritsar asked the District Attorney, Administration to render his opinion. The office of District Attorney sought some documents, which were supplied to him and he gave his opinion on 25.07.2014. State counsel asserts that the matter was then referred to the Chief Engineer (NH) PWD (B&R) vide letter dated 28.07.2014 for getting the necessary sanction, which was accorded on 08.08.2014. He submits that instructions were issued to the District Attorney on 14.08.2014 and after vetting, objection petition under Section 34 of the Arbitration Act was instituted on 21.08.2014, which resulted in a delay of 28 days in its filing. He submits that a separate application for condonation of delay was filed, which after contest, has been illegally rejected by the learned Additional District Judge, despite the fact that he had the power to condone the delay under proviso to Section 34 (3) of the Arbitration Act.



FAO-5172-2019 (O&M)

-3-

4. Counsel for respondent No.1 while supporting the order under appeal, submits that the matter has become academic as the awarded amount has been paid.

5. I have heard the counsel for the parties and considered their respective submission, besides examining the arbitral record.

6. It is not in dispute that a signed copy of the award dated 21.04.2014 was received by the appellant, who forwarded it further for getting necessary opinion and approval. This has resulted in a delay of 28 days in the filing of the objection beyond the period of three months as laid down in Section 34 (3) of the Arbitration Act. In Assam Urban Water Supply and Sewerage Board Versus M/s Subash Projects and Marketing Limited, (2012) 2 SCC 624, Supreme Court observed as under:-

“6. [Section 34\(3\)](#) of the 1996 Act provides that an application for setting aside an award may be made within three months of the receipt of the arbitral award. The proviso that follows sub-section (3) of [Section 34](#) provides that on sufficient cause being shown, the court may entertain the application for setting aside the award after the period of three months and within a further period of 30 days but not thereafter.”

7. It is, therefore, clear that the delay in the filing of the objection beyond the initial period of three months is not to be condoned in a mechanical manner. An objector has to show sufficient cause and satisfy the Court that it



was unable to file the objection petition within prescribed time. Mere reference to inter-departmental communication between different wings of the Government or government offices would not furnish a sufficient cause for condonation. Although, Section 5 of the Limitation Act, 1963 is not applicable to condone the delay beyond the period prescribed under Section 34 (3) of the Arbitration Act, but the learned Additional District Judge has examined the explanation furnished by the appellant and has come to the conclusion that the cause shown by it, is not sufficient. This Court does not find any reason to disagree with the finding recorded by the learned Additional District Judge, which is hereby affirmed. Furthermore, the awarded amount has already been disbursed to respondent No.1. This is another reason on account of which the impugned order does not call for any interference.

8. For the reasons given hereinabove, this Court is of the view that the appeal is bereft of merit and is hereby dismissed with no order as to costs.

9. Pending applications are disposed of.

(SUVIR SEHGAL)
JUDGE

15.10.2024
Kamal

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