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

**CWP-11906-2025 (O&M)
Date of Decision: 21.05.2025**

CHANDIGARH HOUSING BOARD

..... PETITIONER

VERSUS

M/S GIRDHARI LAL CONSTRUCTIONS PVT. LTD. AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Deepak Malhotra, Advocate
for the petitioner.

TRIBHUVAN DAHIYA, J. (ORAL)

For the reasons stated, the application CM-7929-CWP-2025 is allowed, and the amended writ petition is taken on record.

2. The petition has been filed *inter alia* seeking a writ of *certiorari* setting aside the order dated 28.11.2024, Annexure P-17, passed by the sole Arbitrator in Arbitration Case no. 215 of 2020, whereby claims raised by the respondent-claimant were held within limitation.

3. The Arbitrator was appointed by this Court vide orders dated 15.12.2023 and 09.02.2024 passed in ARB-215-2020. The petitioner sought review of the orders by filing application, RA-CR-53-2024, on the ground that the petition was time barred. The review application was dismissed vide order dated 22.03.2024. The petitioner approached the Supreme Court against these orders and filed SLP-28240-2024 which was dismissed by



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giving liberty to raise all contentions before the Arbitral Tribunal, including that the arbitration petition was beyond limitation. The order reads as under:

2. Having heard the learned counsel for the petitioner, the submission that the arbitration petition was beyond time, can always be raised before the arbitral tribunal. We are not inclined to interfere under Article 136 of the Constitution of India. However, liberty is granted to the petitioner to raise all contentions before the Arbitral Tribunal.

3. The Special Leave Petitions are dismissed.

Accordingly, the petitioner raised the plea that the claims were barred by limitation by moving an application before the Arbitrator. He was required to address and decide the issue of limitation, which has not been done, still the arbitral proceedings have been allowed to continue.

4. Heard.

5. It is apparent on record that this Court vide order, dated 09.02.2024, appointed the Arbitrator who commenced the proceedings. Thereupon, the petitioner moved an application, dated 14.08.2024, Annexure P-14, seeking dismissal of the arbitral proceedings *inter alia* on the ground that the appointment of Arbitrator was wrong. The application was decided by learned Arbitrator vide impugned order, dated 28.11.2024, by framing the following issues:

1. Whether the Arbitral Tribunal has been validly constituted considering the issue of limitation?

2. Whether the claims raised by the claimant are within limitation or not?

Regarding the first issue, it was held that it did not survive for consideration as it had been raised before the High Court in proceedings under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short, 'the Act of

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1996'), and was negated leading to appointment of the Arbitrator vide order dated 09.02.2024. Regarding the second issue, it was held that the claim was within the period of limitation.

6. The contention by the learned counsel that the Arbitrator has not decided the issue whether the Tribunal has been validly constituted, is misconceived. Once the Arbitral Tribunal has, concededly, been set up under orders of this Court passed in exercise of jurisdiction under Section 11(6) of the Act of 1996 against which review application has also been dismissed, the petitioner has no right to raise the issue before this Court by filing the instant petition. That too after the SLP challenging the orders appointing the Arbitrator as well as order passed in review was dismissed vide order dated 29.07.2024. There is no procedure known to law that an order passed by a Court can be challenged before that very Court after dismissal of SLP against it by the Supreme Court. So far as the second issue of the claims being barred by limitation is concerned, that has already been decided vide the impugned order, and the arbitral proceedings are continuing. Final award has not been pronounced as yet. Therefore, there is no occasion for this Court to examine merits of the impugned order. The petition is apparently a misuse of the process of law and has been filed on baseless grounds. It has resulted in waste of time of the Court as well.

7. Resultantly, the petition is dismissed with costs of ₹20,000 to be deposited with the Poor Patients Welfare Fund, PGIMER, Chandigarh, within four weeks. A receipt of the costs deposited be placed on the case file within two weeks thereafter.

8. Pending miscellaneous application(s), if any, also stand(s)



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disposed of.

21.05.2025
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(TRIBHUVAN DAHIYA)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable Yes/No