

(2012) 09 P&H CK 0279

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 5397 of 2012 (O and M)

The Sonepat Krishna
Co-Operative Labour and
Construction Society Limited

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: Sept. 14, 2012

Hon'ble Judges: M. Jeyapaul, J

Bench: Single Bench

Advocate: Ramesh Hooda, for the Appellant;

Final Decision: Dismissed

Judgement

M. Jeyapaul, J.

The Sonepat Krishna Co-operative Labour and Constructions Society Limited has come forward with the present Civil Revision challenging the dismissal of the Execution Petition laid by it. Heard the submission made by learned counsel appearing for the Revision petitioner.

2. As per clause 19.3 of the work agreement executed between the parties, either of the parties aggrieved by the decision of the Adjudicator can refer the matter before the Arbitrator within 15 days from the receipt of the decision of the Adjudicator.

3. The contention of the Revision petitioner is that the Arbitrator has entertained the reference made by the respondent beyond the period of limitation prescribed under the work agreement executed between the parties but the Execution Court chose to dismiss the execution application as the Arbitrator had already taken cognizance of the reference made by the respondent as against the decision rendered by the Adjudicator.

4. Of course, the work agreement would contemplate that the reference shall be made as against the decision of the Adjudicator by one of the aggrieved parties before the Arbitrator for passing an award within 15 days from the date of receipt of

the decision taken by the Adjudicator. Right or wrong, the Arbitrator has taken cognizance of the reference made by the respondent aggrieved by the decision taken by the Adjudicator. When the Arbitrator has already taken cognizance of the reference made by the respondent, the Executing Court ceases to have any authority to entertain further the Execution Petition filed by the Revision Petitioner.

5. If at all the Arbitrator has entertained the reference made by the respondent beyond the period of limitation prescribed under the work agreement, the Revision petitioner is at liberty to file an application before the Arbitrator who has taken cognizance of the reference made by the respondent to decide the question as to whether the reference itself was made by the respondent beyond the period of limitation prescribed under the work agreement. But the Execution Court cannot go into the question whether the Arbitrator had lawfully entertained the reference made by the respondents. In view of the above, confirming the decision taken by the Execution Court, the Revision Petition is dismissed, giving liberty to the Revision Petitioner to canvass the question of limitation before the Arbitrator concerned. No costs.