

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5410 OF 2015
(Arising out of S.L.P.(C) No.8523 of 2013)

RAMA INDUSTRIES LIMITED

Appellant(s)

Versus

G.M. FABRICATORS AND OTHERS

Respondent(s)

O R D E R

In the instant case while recording reasons, in the order dated 25.2.2013, notice was issued to the respondents. The matter was taken up on 3.12.2013 and it was found that notices were duly served and again it was directed to be listed on 28.1.2014 and thereafter on 7.7.2014. By way of abundant caution on 7.7.2014, notices were directed to be issued again to the unserved respondent No.1. On 9.9.2014, the petitioner was directed to file affidavit in proof of dasti service of notice. In spite of several opportunities granted, no one appears on behalf of the respondents.

In our view, therefore, no useful purpose will be served in keeping the matter pending.

We have heard learned senior counsel for the petitioner.

Today also, no one appears on behalf of the respondents.

Leave granted.

The facts of the case lie in a narrow compass. On 5.12.2002 an application under Section 11 of the Arbitration and Conciliation Act (in short '1996 Act') was filed by the respondent which was decided on 1.10.2005 appointing two Arbitrators for the purpose of adjudicating the disputes between the parties. It appears that an Award was passed on 6th March, 2008, but the same was not received by the petitioner till 13th March, 2008. On 26th March, 2008, the petitioner under the bona fide belief that Chandigarh Court had jurisdiction, filed petition under Section 34 of the said Act before the Additional District Judge, Chandigarh. On 10th November, 2009, the Chandigarh Court returned the petition for presenting it before the appropriate Court i.e. Court at Patiala having jurisdiction. The petitioner also filed a separate application under Section 14 of the Limitation Act for condonation of delay in filing the petition. The Additional District Judge, Patiala dismissed the application under Section 14 of the Limitation Act for condonation of delay in filing the petition under Section 34 of the 1996 Act.

Aggrieved by the said order the petitioner preferred an appeal before the High Court of Punjab and Haryana being First Appeal No. 5989 of 2012. The High Court dismissed the appeal and upheld the order passed by the Additional District Judge, Patiala.

As noticed above, after the Court at Chandigarh returned the petition to be presented before the appropriate Court of competent jurisdiction at Patiala, the petitioner after obtaining certified copy of the order moved the competent court at Patiala.

In our view, therefore, the delay occurred in filing the appeal ought to have been condoned by the courts below and the petition filed under Section 14 of the Limitation Act ought to have been allowed.

We, therefore, allow this appeal and set aside the impugned order passed by the courts below and direct the court to restore the appeal to its original file and hear and dispose of the appeal on merits in accordance with law.

.....J.
(M.Y. EQBAL)

.....J.
(C. NAGAPPAN)

New Delhi,
July 13, 2015

ITEM NO.46

COURT NO.10

SECTION IVB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 8523/2013

(Arising out of impugned final judgment and order dated 09/11/2012 in FAO No. 5989/2012 passed by the High Court Of Punjab & Haryana At Chandigarh)

RAMA INDUSTRIES LTD.

Petitioner(s)

VERSUS

G.M. FABRICATORS & ORS.

Respondent(s)

Date : 13/07/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.Y. EQBAL
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s)

Mr. Shyam Divan, Sr.Adv.
Mr. Mahesh Agarwal, Ad.
Mr. Abhinav Agrawal, Adv.
Ms. Devika Mohan, Adv.
For Mr. E. C. Agrawala, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

No one appears on behalf of the respondents.

Leave granted.

The appeal is disposed of in terms of the signed
order.

[INDU POKHRIYAL]
COURT MASTER

[SUKHBIR PAUL KAUR]
A.R.-CUM-P.S.

(Signed order is placed on the file)