

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)

Plaintiff(s)	RAMA INDUSTRIES LIMITED	Appel
	Versus	
Respondent(s)	G.M. FABRICATORS AND OTHERS	Respo

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 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.

Signature Not Verified

Digitally signed by
Sukhbir Paul Kaur
Date: 2015.07.15
16:41:16 IST
Reason:

We have heard learned senior counsel for the petitioner.

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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 6 th March, 2008, but the same was not received by the petitioner till 13 th 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.

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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.

(Signed order is placed on the file)