

CASE NO.:
Appeal (civil) 1458 of 2008

PETITIONER:
STATE OF PUNJAB & ANR

RESPONDENT:
GURDEV SINGH

DATE OF JUDGMENT: 21/02/2008

BENCH:
H.K. SEMA & MARKANDEY KATJU

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO. 1458 OF 2008
[Arising out of SLP(C) No.1305/2006]

Leave granted.

Heard the parties.

In this appeal, an award made by the Arbitrator was filed before the Court for making it the rule of the Court. The Civil Judge, Junior Division, Pathankot, refused to make the award rule of the court solely on the ground that the award was made after the expiry of the period. Aggrieved thereby, a civil revision petition under Section 115 of CPC was filed before the High Court. The High Court, on a consent of the parties, converted the petition into the one under Article 227 of the Constitution. By its impugned order, the High Court condoned the delay. So far as the order passed by the High Court condoning the delay in exercise of its discretionary power is concerned, we have nothing to say. But while doing so, the High Court has also made the award rule of the court which power the High Court does not possess in2.

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exercise of jurisdiction under Article 227 of the Constitution. In our view, therefore, the second part of the High Court order, making the award rule of the court, was exercised in excess of its jurisdiction. To that extent, the High Court order is set aside. Normally the High Court should have remitted the matter to the trial Court for a fresh consideration.

Accordingly, the order of the High Court to the extent indicated above is set aside.

The matter is remitted to the Civil Judge, Junior Division, Pathankot to hear the objections afresh and pass necessary orders in accordance with law. Since the award has been made as far back in 1995, the Civil Judge, Junior Division, Pathankot shall expedite the hearing and pass orders preferably within three months.

The appeal is disposed of in the above terms.