

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

**CR No.3321 of 2015
Date of decision: 04.11.2015**

M/s. Group, 33 Hotel & Resorts Pvt. Ltd. and others

....Petitioners

Versus

Ishan Developers & Infrastructure Limited

....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anmol Rattan Sidhu, Sr. Advocate
with Mr. R.K. Chugh, Advocate
for the petitioners.

Mr. Deepak Sabharwal, Advocate
for the respondent.

RITU BAHRI J. (Oral)

The petitioners/defendant has come up in revision for setting-aside the order dated 08.04.2015 (Annexure P-11) and the order dated 24.04.2015 (Annexure P-13), passed by the Sole Arbitrator, Chandigarh, whereby the application of the petitioners-defendant for summoning the witnesses has been dismissed and the application for cross-examination of respondent has not been decided.

From the perusal of the paperbook, it is revealed that the petitioners had made an application (Annexure P-10) before

the Arbitrator for directing the claimant to produce the witnesses for the purpose of cross-examination by the respondent. Thereafter, the said application was dismissed.

The Division Bench of this Court in judgment “**M/s. Punjab State Industrial Development Corporation Ltd. Vs Sunil K. Kansal**”, 2013 (7) R.C.R. (Civil) 2606, has observed as under:-

(i) The issues, as required under Order XIV Rule 1 of the Code as in the regular suit, are not required to be mandatorily framed by the Court. However, it is open to the Court to frame questions which may arise for adjudication.

(ii) The Court while dealing with the objections under Section 34 of the Act is not bound to grant opportunities to the parties to lead evidence as in the regular civil suit. The jurisdiction of the Court being more akin to the appellate jurisdiction;

(iii) The proceedings before the Court under Section 34 of the Act are summary in nature. Even if some questions of fact or mixed questions of law and/or facts are to be decided, the court while permitting the parties to furnish affidavits in evidence, can summon the witness for cross-examination, if desired by the other party. Such procedure is keeping in view the principles of natural justice, fair play and equity.

The present revision has been filed at the stage when the arbitration proceedings were going-on and an Arbitrator had been appointed by the respondent while exercising their powers as per Clause 18 of the Agreement dated 21.01.2013 (Annexure P-1).

Thereafter, another the application (Annexure P-12) was made by the petitioner for cross-examination of R.K. Sharma, Managing Director, Ishan Developments & Infrastructure Limited and without deciding the said application, the order (Annexure P-13) has been passed on 24.04.2015 and the matter has been adjourned for the evidence of respondent without passing any order for cross-examination of R.K. Sharma, Managing Director, Ishan Developments & Infrastructure Limited.

Learned counsel for the respondent has informed the Court that the Arbitrator so appointed has now relinquished from the proceedings on 31.10.2015.

So, in view of the ratio laid down in *M/s. Punjab State Industrial Development Corporation Ltd's case (supra)*, the present revision petition is allowed and the order dated 08.04.2015 (Annexure P-11) and the order dated 24.04.2015 (Annexure P-13), passed by the Sole Arbitrator, Chandigarh, are hereby set-aside with liberty to the petitioners and the respondent to take appropriate steps for appointment of new Arbitrator as per Agreement dated 21.01.2013 (Annexure P-1).

Allowed, accordingly.

(RITU BAHRI)
JUDGE

04.11.2015

yakub