

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

CWP No. 21969 of 2015
Date of decision: 05.11.2015

H.P. Handa

....Petitioner(s)

Versus

Jaswinder Sheemer and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. V.M. Handa, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner, who is a retired District Judge, was appointed as an Arbitrator by this Court in Arbitration Case No. 95 of 2008 on 08.05.2009. Initially, an award was passed ex parte on 27.07.2009, which was challenged by respondent no. 2-Punjab Mandi Board before the Additional District Judge, Gurdaspur under Section 34 of the Arbitration and Conciliation Act, 1996 and the application was dismissed. The said respondent no. 2 filed FAO No. 2822 of 2012 before this Court, which was allowed on 16.12.2013 and the order was set aside by allowing the same and the parties were asked to appear before the Arbitrator on 15.01.2014.

It is the case of the petitioner that thereafter, the award was passed on 18.02.2015 and the claim of respondent no. 3-the Cooperative Society was rejected. However, arbitration fee of ₹1,90,000/-, on account of 19 effective hearings, has been determined as per the Punjab and Haryana High Court (Arbitrator's Panel and Fee) Rules, 2011. Reference has been made to Chapter III of the above said Rules to show that the fees is to be

shared by both the parties which was directed as per award. A condition was also put that the award would remain suspended till the payment of the fee. The relevant portion of the Rules reads thus:-

“CHAPTER III

8. Arbitrators' Fees-

(1) The fees payable to the each of the Arbitrators shall be determined in accordance with the scales specified in Schedule 'B' to these rules.

(2) The arbitrators' fees set forth in these Rules shall be initially shared equally by the parties subject to the cost of arbitration as may be finally determined by the Arbitral Tribunal.”

Respondent no. 3 thereafter filed proceedings before the Additional District Judge, Gurdaspur namely respondent no. 1 challenging the award, in which, a notice has also been issued to the petitioner in which he had been arrayed as a party. It is the case of the petitioner that the arbitration fees is payable by respondents no. 2 and 3 and, therefore, in view of the clause put in the award that the award would remain suspended till the arbitration fee is paid and the parties should be asked to pay the said fees.

This Court is of the opinion that it would be unnecessarily starting another set of litigation arising out of the proceedings. The matter is already pending consideration before respondent no. 1. Respondents no. 2 and 3 are under an obligation to pay the arbitration fees having submitted to the jurisdiction of the petitioner-arbitrator.

Accordingly, the present writ petition is disposed of with a direction that the petitioner shall approach respondent no. 1 by filing an appropriate application for redressal of his grievances regarding the non-

payment of arbitration fees, which should be accordingly be decided by the said Court expeditiously. In case the liability of the said respondents is found, the Court shall take further action to ensure the payment of the said fees, which is legally due to the petitioner.

05.11.2015
shivani

(G.S. SANDHAWALIA)
JUDGE