

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

F.A.O.No.1960 of 2014 (O&M)

Date of Decision: February 24, 2016

M/s Kunal Agro Gram Udyog Samiti

...Appellant

Versus

Punjab Agro Food Grains Corporation Limited, Chandigarh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**Present: Mr.Sapan Dhir, Advocate,
for the appellant.**

**Mr.Vishal Singh, Advocate,
for respondent Nos.1 & 2.**

AMIT RAWAL, J. (Oral)

The appellant-miller is aggrieved of the order dated 2.12.2013, whereby the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short "1996 Act") for setting-aside the ex-parte award dated 11.6.2010, have been dismissed.

Mr.Sapan Dhir, learned counsel appearing on behalf of the appellant-miller submits that the address given before the arbitrator, as per the memorandum of claim, was incomplete. This fact was mentioned in the application filed under Section 34 of 1996 Act, in which complete address was given. It was sufficient for the Objecting Court to set-aside the award as all the notices of the arbitration proceedings, much less copy of the award were sent at incomplete address. Even a petition under Section 9 of 1996

Act was filed, wherein the correct address, i.e., House No.367, Ward No.15-A, Pucci Gali, Dhuri, District Sangrur was given. It is only in the execution proceedings, the correct address was given and, therefore, the appellant had acquired the knowledge and thereafter filed the objections, but the same have been dismissed on the ground of limitation as well as on merits. He further submits that the aforementioned objections were falling with the realm of Section 34 of 1996 Act.

Mr.Vishal Singh, learned counsel appearing on behalf of respondent Nos.1 and 2 submits that the appellant was aware of the arbitration proceedings, much less of the award and the objections were filed just to delay the execution of the award, for, as per the provisions of Section 36 of 1996 Act, when the execution was filed, the execution of the award automatically stayed. The objections were not falling with the realm of Section 34 of 1996 Act and rightly so, the same have been dismissed.

I have heard the learned counsel for the parties and appraised the paper book.

It would be apt to reproduce the memo of parties as noticed in the award and in the objection petition.

“Punjab Agro Food Grains Ltd.Through its D.M.Sangrur

Claimant

Versus

M/s Kunal Gram Udyog Samiti Through its Secretary Shri Sanjeev Kumar Singla Benra Road, Maanwala Tehsil Dhuri Distt.Sangrur.

Respondents.

“M/s Kunal Agro Gram Udyog Samiti, through its Secretary Sanjeev Kumar Singla, now residing at House No.15A/ 367, Pucci Gali, Dhuri, Tehsil Dhuri, District Sangrur.

...Appellant

Versus

1. Punjab Agro Food Grains Corporation Limited, Chandigarh through its District Manager, PAFC Sangrur.
2. Punjab Agro Foods Grain Corporation Limited, Chandigarh through its Managing Director, Sector 28-A, PAFC Chandigarh.
3. GS Bhatia, Chief Manager (Retired) sole Arbitrator, Punjab Agro Foods Grains Corporation Limited, Sector 2-A, Chandigarh.”

On juxtaposition of both the memo of parties, it is clear that the appellant had given complete address in the objections. This fact should have been noticed by the Objecting Court, rather than blaming the miller of having not supplied any material vis-a-vis non-functioning of the mill, much less non-receipt of the arbitration proceedings. Once the address was incomplete and the copy of the award was sent at incomplete address, therefore, the appellant did not have occasion to challenge the same within the stipulated time as mentioned in sub-section (3) of Section 34 of the Arbitration Act. In the execution application, correct address was given and, therefore, the appellant acquired the knowledge of the ex-parte award and filed the objections on 18.1.2011, whereas the copy of the execution proceedings was received on 13.1.2011. This itself is a sufficient ground for setting-aside the award as well as the order under challenge.

There is another aspect of the matter. After passing of the award, an application under Section 9 of 1996 Act was filed, wherein the correct address of the society was given and Kavita Singla was arrayed as

respondent No.2, whereas he had sought attachment of the property of Kavita Singla, wife of the Secretary. She would not have any concern with the affairs of the Society.

Keeping in view the aforementioned facts and circumstances, the impugned award and the order are set-aside. The appeal stands allowed.

The parties shall be at liberty to seek the appointment of the arbitrator in case any cause survives in accordance with law.

February 24, 2016
ramesh

(AMIT RAWAL)
JUDGE