

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

FAO No. 4309 of 2013 (O&M)
DATE OF DECISION:18.11.2016

Subhash Gulati

...Appellant

Vs.

M/s Kotak Mahindra Bank Ltd. and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. A.P.Bhandari, Advocate
for the appellant.

Mr. A.S.Virk, Advocate
for respondent No.1.

Mr. Sandeep Goyal, Advocate
for respondent No.2.

AMIT RAWAL, J.(ORAL)

Appellant-grantor is aggrieved of the dismissal of the objections filed under Section 34 of the Arbitration and Conciliation Act 1996 (for short 'the Act') challenging the *ex-parte* award dated 27.06.2009 passed by the Arbitrator at Chennai.

Mr. A.P.Bhandari, learned counsel appearing on behalf of the appellant submits that the Arbitrator had not only abdicated but misconducted himself in effecting the service at a wrong address i.e.507 Model Town, Jind road, District Kaithal, whereas the appellant being grantor was residing at house No. 517, Model Town, Jind road, District Kaithal. However, the factum of the *ex-parte* award came to the knowledge of the appellant only in execution proceedings resulting into filing of the objections but the same has been dismissed.

Mr. Virk, learned counsel appearing on behalf of respondent No.1 submits that he may be given a chance to contest the award by setting aside the order.

Learned counsel appearing on behalf of the respondent(s) submits that in the application form submitted by the appellant for obtaining the loan, the address given was 517 Model Town, Jind Road, Kaithal. The Arbitrator has sent the notice at the same address which was given in the claim statement. Even otherwise, the objection at Kaithal was not maintainable as arbitration proceedings were conducted at Chennai and, therefore, the appellant cannot take the benefit of provisions of Section 42 of the Act.

I have heard learned counsel for the parties and appraised the paper book and of the view that the objections at Kaithal are not maintainable. If at all the appellant had any grievance, he could have filed the objections in concerned Principle Court within the jurisdiction of Chennai as no such other proceedings under Section 9 or 11 of 1996 Act were initiated at Kaithal.

At this stage, Mr. Bhandari, seeks indulgence of this Court for granting the permission to file the objections in the competent Court provided the period spent herein is condoned. Request of Mr. Bhandari, seems to be very fair and justified. Accordingly, permission is granted to the appellant to file the objections in a Competent Court by taking the aid of the provisions of Section 14 of the Limitation Act and the findings rendered by the objecting Court shall not be construed an expression of opinion on the merit of the case.

Appeal stands disposed of.

18.11.2016
rimpal/smruti

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No