

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

FAO No.4748 of 2016 (O&M)

Date of Decision.17.08.2016

Executive Engineer, Provincial Division No.2, Haryana

.....Appellant

Vs.

The Kirmach Co-operative L&C Society and anotherRespondents

Present: Mr. D.K. Mittal, DAG, Haryana
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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?

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AMIT RAWAL J. (ORAL)

C.M. No.16252-CII of 2016

For the reasons stated in the application, delay of 37 days in filing the appeal is condoned.

Application is allowed.

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The appellant-State is in appeal under Section 37 of the Arbitration and Conciliation Act, 1996 against the impugned order whereby the objection at the instance of the respondent-Society has been allowed, in essence, the Award dated 26.03.2012 has been set aside.

Mr. D.K. Mittal, DAG, Haryana appearing for the appellant submits that the plank of the Society before the Arbitrator and before the Objecting Court was that it had never signed the document nor it executed

any agreement to allot the work. Jai Parkash by whom the agreement had been executed was not authorized by the Society neither it had any role to play in allotting the alleged work to Jai Parkash. Society also denied to have signed any agreement dated 13.08.1996 for an amount of ₹3.80 lacs with the time limit of two months. The Objecting Court ought not to have entertained the objections as they did not fall within the realm of Section 34 of the Arbitration and Conciliation Act, 1996 as could not be said to be against the public policy. There is limited scope for entertaining the objections. In fact, the Objecting Court had exceeded its jurisdiction.

I have heard learned counsel for the appellant and appraised the paper book. The conceded position on record is that the agreement dated 13.08.1996 has not been placed on record. In the absence of the same, the Arbitrator, in my view, could not have entered into reference and continued with the arbitration proceedings. It ought to have insisted for production of the agreement, as for adjudication of the dispute between the parties to the lis, the terms of the agreement had to be determined. Even otherwise, it has come into evidence that Jai Parkash who had allegedly got work allotted was neither authorized signatory nor any official of the society. It is in this background of the matter, the Objecting Court examined the objections by noticing the fact that the Award was against the public policy and the claims could not have been entertained in the absence of the essential document i.e. the agreement. Even Raj Kumar, Government contractor who had allegedly completed the work allotted to the society has not been examined to prove the contentions. In fact, the agreement had been executed by Jai Parkash, who, as notice above, was not authorized by the society in any manner.

In my view, the order under challenge is perfectly legal and

justified as the objections were falling within the realm of Section 34 of the Arbitration and Conciliation Act. I do not find any reason to interfere with the same. The appeal is dismissed.

(AMIT RAWAL)
JUDGE

August 17, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No