

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: February 15, 2016

1. *T.A. No. 676 of 2012 (O&M)*

M/s Guru Nanak Auto Agency

... Applicant

Versus

M/s Honda Motor Cycles and Scooters India (P) Ltd. & another

... Respondents

2. *T.A. No. 344 of 2015 (O&M)*

M/s Honda Motor Cycles and Scooters India (P) Ltd.

... Applicant

Versus

M/s Guru Nanak Auto Agency

... Respondent

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

Present: Mr. S.K. Mahajan, Advocate,
for the applicant in TA No. 676 of 2012
for the respondent in TA No. 344 of 2015.

Mr. Harsh Aggarwal, Advocate,
for the applicant in TA No. 344 of 2015
for respondent No.1 in TA No. 676 of 2012.

Paramjeet Singh Dhaliwal, J. (Oral)

By this common order, both the transfer applications i.e. TA
No. 676 of 2012 and TA No. 344 of 2015 are being decided together.

TA No. 676 of 2012 has been filed under Section 24 of the
Code of Civil Procedure for transfer of petition under Section 34 of the
Arbitration and Conciliation Act, 1996 (hereinafter referred to as the “Act”)

titled as “M/s Honda Motor Cycles & Scooters India Pvt. Ltd. versus M/s Guru Nanak Auto Agency etc.”, pending in the Court of learned Additional District Judge, Gurgaon and suit for mandatory injunction and recovery titled as “M/s Honda Motor Cycles & Scooters Vs. M/s Guru Nanak Auto Agency” pending in the Court of learned Additional Civil Judge (Senior Division) Gurgaon, to the Court of learned Additional District Judge, Amritsar where the other applications/petitions/proceedings are already pending.

TA No. 344 of 2015 has been filed under Section 24 C.P.C. read with Article 227 of the Constitution of India for transferring the objection petition under Section 34 of the Arbitration & Conciliation Act, pending in the Court of learned Additional District Judge, Amritsar to the Court of learned Additional District Judge, Gurgaon wherein the original application under Section 34 filed by the applicant – M/s Honda Motor Cycles and Scooters India (P) Ltd. is pending.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the applicant – M/s Guru Nanak Auto Agency contends that award was passed on 12.06.2012 by the Arbitrator at Gurgaon and the same was received at Amritsar on 15.06.2012. Thereafter, on 16.07.2012 objection petition under Section 34 of the Act was filed by the applicant in the Court of learned District Judge, Amritsar, which is pending. Thereafter on 06.08.2012, petition under Section 36 of the Act was filed at Amritsar.

On the other hand, learned counsel for the respondent – M/s Honda Motor Cycle and Scooters India (P) Ltd. vehemently contends that award has been passed at Gurgaon and all the other proceedings have commenced there.

I have considered the contentions raised by learned counsel for the parties and perused the record.

Perusal of the record shows that when the objection petition was filed by the applicant - M/s Guru Nanak Auto Agency, respondent - M/s Honda Motor Cycle and Scooters India (P) Ltd. moved an application under Order 9 and under Order 7 Rule 11 of the CPC for dismissal/rejection of the petition. At that point of time, jurisdiction of Court at Amritsar cannot be ousted. Be that as it may, the fact remains that award has been passed at Gurgaon. The respondent has also moved objection petition under Section 34 of the Act in the month of August, 2012 in the Court of learned Additional District Judge, Gurgaon, which is pending. The objection petition under Section 34 of the Act filed by the applicant is subsequent. Otherwise also, when ex-parte award was made, the applicant was required to challenge the proceedings in appropriate Court as per the provisions of Arbitration and Conciliation Act, 1940 because the proceedings have commenced under that Act.

In view of above, no ground for transfer of the petition under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the “Act”) titled as “M/s Honda Motor Cycles & Scooters India Pvt. Ltd. versus M/s Guru Nanak Auto Agency etc.”, pending in the

Court of learned Additional District Judge, Gurgaon and suit for mandatory injunction and recovery titled as “M/s Honda Motor Cycles & Scooters Vs. M/s Guru Nanak Auto Agency” pending in the Court of learned Additional Civil Judge (Senior Division) Gurgaon is made out.

TA No. 676 of 2012 is dismissed.

In view of the fact that petition under Section 34 of the Arbitration and Conciliation Act, 1996 titled as “M/s Honda Motor Cycles & Scooters India Pvt. Ltd. versus M/s Guru Nanak Auto Agency etc.”, and suit for mandatory injunction and recovery titled as “M/s Honda Motor Cycles & Scooters Vs. M/s Guru Nanak Auto Agency” are pending at Gurgaon, it would be in the interest of M/s Guru Nanak Auto Agency as well that all proceedings are tried at one place as he will not be required to appear at different places on different dates. Accordingly, TA No. 344 of 2015 is allowed and objection petition under Section 34 of the Act, pending in the Court of learned Additional District Judge, Amritsar is withdrawn and ordered to be transferred to learned District Judge, Gurgaon, who may assign the same to the Court of competent jurisdiction there. Learned Addl. District Judge, Amritsar shall ensure that entire record of the case is sent to learned District Judge, Gurgaon.

Parties are directed to appear before the Court of learned District Judge, Gurgaon on 03.03.2016.

Disposed of.

February 15, 2016
vkd

[Paramjeet Singh Dhaliwal]
Judge