

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

CR-2521-2018 (O&M)

Date of decision : 30.4.2018

M/s Bestways Transport (India) Pvt. Ltd.

..... Petitioner

Versus

M/s Bosch Chasis System India Ltd.

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sanjiv Ghai, Advocate for the petitioner.

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 17.2.2018 (Annexure P-6), passed by learned Additional District Judge-cum-Judge, Special Commercial Court, Gurugram, vide which in an objection petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Arbitration Act') an application filed under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure, 1908 (for short 'the CPC') was dismissed.

Heard.

It comes out that against the award, objection petition has been filed by the opposite party under Section 34 of the Arbitration Act. In the proceedings of said petition when the present petitioner appeared, he filed an application under Order VII Rule 11 of the CPC, 1908 for rejection of the objections.

I am of the view that the provisions of the Order VII Rule 11 of the CPC applies to the suit and not to proceedings filed under Section 34 of the Arbitration Act which is in the nature of appeal against the award of the arbitrator.

Learned counsel for the petitioner submits that Section 34 of the Arbitration Act could not be entertained in this case without complying with the Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 (for short 'the MSMED Act').

It being so, the petitioner should have filed the application under Section 19 of the MSMED Act and not under Order VII Rule 11 of the CPC.

As such, the present petition is dismissed. However, liberty is granted to the petitioner to move an application under Section 19 of the MSMED Act. It is further directed that if the said application is filed, same shall be decided without considering the reasoning given in the impugned order.

Dismissed with aforesaid liberty.

(KULDIP SINGH)
JUDGE

30.4.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No