

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

Sr. No.125

C.R. No.5484 of 2018

Date of decision: 23.08.2018

M/s Mahavir Agro Industries and another

....Petitioners

versus

Punjab State Warehousing Corporation, Chandigarh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Umesh Aggarwal, Advocate
for the petitioners.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 07.07.2018 passed by the Additional District Judge, Tarn Taran (for short- 'the Trial Court') which dismisses an application filed by the petitioners under Order 7 Rule 11 CPC through which they had sought the rejection of the application filed by respondent No.1 under Section 9 of the Arbitration and Conciliation Act, 1996 (for short – 'the Act').

It is admitted that a dispute which had arisen between the parties was referred for arbitration which culminated in an award dated 03.08.2017 through which the petitioners were held liable to pay to the respondents a sum of over ₹ 1 crore. It is further not disputed that the petitioners have filed their objections under Section 34 of the Act and that

matter is still pending.

After the passing of the aforesaid award and during the pendency of the objections filed by the petitioners, respondent No.1 filed an application under Section 9 of the Act seeking therein to secure the aforesaid awarded amount. The petitioners filed an application under Order 7 Rule 11 CPC seeking rejection of such application on the ground that the same did not disclose any cause of action. This application of the petitioners has been dismissed through the order under challenge in the present proceedings.

Learned counsel for the petitioners has been heard.

It is admitted that the Arbitrator has awarded over ₹ 1 crore to be paid by the petitioners to respondent No.1 and that the objections by the petitioners to such award are pending. All that respondent No.1 is seeking through the application filed by it under Section 9 of the Act is to secure the awarded amount. The application is yet to be adjudicated upon. The same does disclose a cause and cannot be rejected at this stage. It is also found to be maintainable under Section 9(1)(ii)(b) &(e) of the Act, which reads as under:-

“9. Interim measures, etc., by Court.-[(1)] A party may before or during arbitral proceedings or at any time after the making of the arbitral award but before it is enforced in accordance with section 36 apply to a Court:--

(ii) for an interim measure of protection in respect of any of the following matters, namely:

XXXXXX

(b) securing the amount in dispute in the arbitration;

(e) such other interim measure of protection as may appear to the Court to be just and convenient;

and the Court shall have the same power for making orders as it has for the purpose of, and in relation to, any proceedings before it.” (emphasis supplied)

In view of the above, no error is found in the order impugned in the present proceedings.

Dismissed.

(DEEPAK SIBAL)
JUDGE

August 23, 2018
Jyoti 1

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