

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

347

FAO-3193-2002 (O&M)
Date of Decision: 06.03.2019

M/S HARYANA CONDUCTORS PVT. LTD

...Appellant

Versus

HARYANA STATE ELECTRICITY BOARD & ANOTHER

...Respondent(s)

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Vivek Suri, Advocate
for the appellant.

Mr. Arvind Seth, Advocate
for the respondent No.2.

JAISHREE THAKUR, J. (Oral)

1. Aggrieved against the order dated 13.02.2002 i.e., the order passed by Additional District & Sessions Judge (I), Panchkula referring the matter back to the Arbitrator for adjudication, the instant appeal has been filed.

2. A few brief facts need to be noticed i.e., there was a purchase order of 1000 KH of ACSR 'WEASEL' conductor subject to the terms and conditions of the agreement between the objector/petitioner and the respondent No.1. On account of a dispute that arose between the parties the matter was referred to the Arbitrator to give his award who gave the same in favour of the appellant M/s. Haryana Conductors Private Limited. Aggrieved against the said award the Haryana State Electricity Board (now UHBVNL) filed a petition under Section 34 of the Arbitration and Conciliation Act, 1996 (Act No. 26 of 1996) for setting aside the Arbitral award dated 08.10.1999.

3. After considering the objections the Additional District Judge, Panchkula while setting aside the award, referred the matter back to the Arbitrator for adjudication in accordance with law and to pass an award within a period of three months from the first date of hearing. Aggrieved against the said order dated 13.02.2002 the instant appeal has been filed.

4. Mr. Vivek Suri, Advocate appearing on behalf of the appellant raises a short question regarding the maintainability of the award and remanding the same back to the Arbitrator. It is argued that there are various judgments wherein it has been held that a District Judge is not competent to remand the matter back to the Arbitrator for a decision afresh. Reliance in this regard has been placed in several judgments, one of them is **Kinnari Mullick and Another Vs. Ghanshyam Das Damani, 2017 (3) R.C.R. (Civil) 251.,** wherein it has been held that Section 34 of the Arbitration and Conciliation Act, 1996 does not provide power to the Court for remanding the case back to the Arbitral Tribunal. This has also been held in **Radha Chemicals Vs. Union of India 2018 (4) Law Herald (SC) 2913.**

5. In view of the settled proposition of law that the District Judge could not remand the matter back to the Arbitral Tribunal, the impugned order is hereby set aside and the matter is remitted back to the District Judge to hear the same on merits in accordance with the parameters laid down under Section 34 of the Arbitration and Conciliation Act, 1996.

6. Parties are directed to put in appearance before the District Judge, Panchkula on 03.04.2019.

This petition stands disposed of.

Since the matter is pending for considerable length of time, the District Judge is directed to decide the matter preferably within a period of 04 months on receipt of certified copy of this order.

06.03.2019
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(JAISHREE THAKUR)
JUDGE

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