

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

Date of decision: 24.07.2019

1. FAO-1101-2014 (O&M)

Shyam Sunder

...Appellant

Versus

Indusind Bank Limited and others

...Respondents

2. FAO-1102-2014 (O&M)

Shyam Sunder

...Appellant

Versus

Indusind Bank Limited and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Pankaj Middha, Advocate,
 for the appellant.

Mr. Ashwani Talwar, Advocate, with
Mr. Sahej Mahajan, Advocate,
for respondent No.1.

JAISHREE THAKUR, J. (ORAL)

This order shall dispose of two appeals bearing FAO Nos. 1101
& 1102 of 2014 both titled as 'Shyam Sunder vs. Indusind Bank Limited
and others' arising out of the order of the District Judge, Jind dated

16.08.2013. The point involved in both the appeals is basically the same, therefore, both the appeals are being disposed of together by this common order.

The short point involved in this appeal is whether the Addl. District Judge, Jind could have dismissed the objections filed under Section 34 of the Arbitration and Conciliation Act, 1996 against the award of the Arbitrator primarily on the ground that the objectors had approached the Court after a period of limitation. Learned counsel appearing on behalf of the appellant would contend that a reading of the order of the Addl. District Judge would reflect that he has not taken into account that there was no delivery of a copy of the award with the objectors as envisaged under Section 31(5) of the Arbitration and Conciliation Act, 1996.

In brief, the few facts that need to be noticed are that there was a loan agreement entered into between the appellant and Indusind Bank Limited and on account of a dispute that arose, arbitration proceedings commenced at Chennai and an ex parte award came to be passed. It is the case set up by the appellant herein that he was never served with either the copy of the proceedings or notice by the Arbitrator or copy of the award as envisaged under Section 31(5) of the Arbitration and Conciliation Act, 1996.

It is contended that as per the judgments rendered by this Court in ***Harchand Singh vs. M/s Reliable Agro Engineering Services (Pvt.) Ltd.*** in ***FAO No. 4224 of 2007***, decided on 04.03.2010, it has clearly been held that merely sending a copy of the award by registered post would not be

sufficient, there has to be actual delivery, which is not born out from the record available.

Counsel for the respondent herein raised a dispute, there has been sufficient compliance of Section 31(5) of the Act since the Arbitrator made several attempts to send the details of the arbitral proceedings and copy of the award on the address available as envisaged under Section 3 of the 1996 Act. He raised another legal issue as to the competency of the Addl. District Judge, Jind to decide the objections keeping in view the fact that arbitration proceedings had taken place at Chennai and accordingly the Courts at Chennai had the jurisdiction to entertain petition under Section 34 of the 1996 Act. He places reliance upon *M/s Bhandari Udyog Limited Vs. Industrial Facilitation Council and Another*, 2015(2) R.C.R. (Civil) 918: 2015(14) SCC 515 and *Indus Mobile Distribution Pvt. Ltd. vs. Datawind Innovation Pvt. Ltd & Ors.*, 2017(7) SCC 678 in support of his argument.

I have heard learned counsels for the parties and have gone through the record and I deem it appropriate to set aside the order of the Addl. District Judge, Jind and remand the matter back to him to decide the issue “whether he had the territorial jurisdiction to entertain the objections and if so whether there was compliance of Section 31(5) of the Act of 1996?” He is directed to decide the matter expeditiously, preferably within a period of three months from the date of receipt of certified copy of this order.

The parties are directed to appear before the Addl. District Judge, Jind on 13.08.2019.

Both the petitions stand disposed of accordingly.

A photocopy of this order be placed on the file of the other connected case.

24.07.2019
Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.