

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

FAO No.1794 of 2014 (O&M)

Date of Decision: November 16, 2019

M/s Tara Singh

...Appellant

Versus

Union of India and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Tribhawan Singla, Advocate
for the appellant.

Mr. Varun Issar, Advocate
for respondents No.1 and 2-UOI.

JAISHREE THAKUR, J. (Oral)

1. This is an appeal that has been filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') seeking to challenge the order dated 15.10.2013 passed by the Addl. District Judge, Chandigarh whereby, the objections filed by the appellant under Section 34 of the Act for setting aside the award dated 08.09.2005 were allowed holding that the Arbitrator had misconducted himself and the award was set aside, while referring the matter back to the Arbitrator to decide the issue afresh.

2. In brief, the facts are that the appellant had entered into a contract agreement bearing No.CWE/CHD-01/95-96 with the Union of India for the improvement of water supply to type III and IV quarters at Chandigarh. However, a dispute arose between the parties and an Arbitrator was appointed in terms of the arbitration clause as mentioned in the

agreement. The appellant herein raised 13 claims totaling ₹ 3,50,849/-,

which claims were disputed. Eventually, the Arbitrator passed the award, which was challenged by the appellant under Section 34 of the Act before the Addl. District Judge, Chandigarh, who set aside the award of the Arbitrator by holding that there was a clear cut misconduct on the part of the Arbitrator in ignoring the document Ex.P4. However, while setting aside the award, the Addl. District Judge, Chandigarh remanded the matter back to the Arbitrator to give a decision afresh. Aggrieved against the said remand order, the instant appeal has been filed.

3. Counsel for the appellant would contend that the Addl. District Judge, Chandigarh did not have the power of remand, as has been stated in the judgments rendered in *Kinnari Mullick and another vs. Ghanshyam Das Damani, 2017(3) RCR (Civil) 251* and *Radha Chemicals vs. Union of India, 2019(1) ACJ (SC) 330*.

4. Per contra, counsel appearing on respondents No.1 and 2 would contend that there is no infirmity in the award as passed by the Arbitrator.

5. I have heard counsel for the parties and in view of the well settled proposition of law that the District Judge can set aside the award, but cannot remand the matter back to the Arbitrator for a decision afresh, this court has no hesitation in setting aside the impugned order of the remanding the matter back to the Arbitrator. Accordingly, the appeal is allowed and the impugned order is hereby set aside. However, the parties are at liberty to appoint a fresh Arbitration in accordance with law, if they so desire.

November 16, 2019

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No