

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

FAO No.1275 of 2015 (O&M)
Date of Decision: July 18, 2019

Rajbir

...Appellant

Versus

M/s Tata Motors Finance Ltd. and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. M.S. Dalal, Advocate
for the appellant.

Mr. Sandeep Suri, Advocate
for respondent No.1.

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 29.08.2014 passed by the Addl. District Judge, Kaithal, dismissing the objections filed by the appellant under Section 34 of the Act for setting aside the award dated 30.04.2010.

2. In brief, the facts are that the appellant herein entered into a loan agreement with respondents No.1 and 3 for purchasing vehicle bearing registration No.HR63-C-7095. On account of default in the repayment of loan, the Financier invoked the arbitration clause and an Arbitrator was appointed, who gave his award on 30.04.2010 at Mumbai. The award was an *ex parte* award. For satisfying the award, respondents No.1 and 3

initiated the execution proceedings at Kaithal. On coming to know about the execution proceedings and the award passed, objections under Section 34 of the Act were filed at Kaithal by the appellant, *inter alia* taking preliminary objections that the award was not sustainable, since he had not been served. However, the Addl. District Judge, Kaithal dismissed the said objections on merits. Aggrieved against the order, the appellant has preferred the instant appeal, by contending that the Addl. District Judge has not appreciated the fact that there was no adequate service by the Arbitrator.

3. Learned counsel appearing on behalf of respondent No.1 contends that the Arbitrator held proceedings at Mumbai in terms of the agreement entered into between the parties, and, therefore, any objection that ought to be filed, should have been filed at Mumbai itself. He places reliance upon the judgments rendered in ***Indus Mobile Distribution Pvt. Ltd. vs. Datawind Innovations Pvt. Ltd. & Ors., 2017(7) SCC 678*** and ***M/s Bhandari Udyog Ltd. vs. Industrial Facilitation Council and another, 2015(14) SCC 515.***

4. I have heard learned counsel for the parties and have also perused the agreement, wherein there is a specific clause that any dispute arising out of the agreement would be dealt with by the Arbitrator at Mumbai, meaning thereby, the courts at Mumbai would have exclusive jurisdiction to entertain the said objections filed under Section 34 of the Act.

5. Faced with this, counsel for the appellant seeks permission to withdraw the instant appeal as well as the objections that were filed under Section 34 of the Act before the Addl. District Judge, Kaithal, with

permission to raise all pleas available to him before the courts at Mumbai, while contending that it was on account of the fact that the execution petition was pending at Kaithal, that the objections were filed before the Addl. District Judge, Kaithal, invoking the jurisdiction at Kaithal.

6. In view of the fact that since the Addl. District Judge, Kaithal did not have the jurisdiction to entertain the objections filed under Section 34 of the Act, the appellant herein is permitted to withdraw the instant appeal as well as the objections filed, in order to move to the appropriate court at Mumbai, having jurisdiction to entertain the same. Needless to say, in case, the appellant herein files objections before the appropriate court at Mumbai and moves the appropriate application under Section 14 of the Limitation Act, the same would be taken into consideration in accordance with law.

7. Dismissed as withdrawn with liberty aforesaid.

July 18, 2019
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No