

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

FAO No.4999 of 2014 (O&M)
Date of Decision: May 14, 2019

Haryana State Industrial and Infrastructure Development Corporation Ltd.
and another

...Petitioners

Versus

M/s Surya Industries

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajvir Singh Sihag, Advocate
for the appellants.

Mr. Ashok Gupta, Advocate
for the respondent.

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 of the Addl. District Judge, Sonapat dated 21.12.2013 whereby, the matter has been remanded back to the Arbitrator.

2. In brief, the facts need to be noticed are, that a plot was allotted to the respondent-M/s Surya Industries, which was on leasehold basis. Allotment of the said plot was cancelled by the appellant-HSIDC (now known as HSIIDC), which dispute led to the appointment of an Arbitrator.

The Arbitrator entered the reference and gave an award against respondent-M/s Surya Industries, who challenged the same by filing an application under Section 34 of the Act for setting aside the said award. The challenge was made before the Addl. District Judge, Sonipat, who on consideration of the award, set it aside and at the same time, remanded the matter back to the Arbitrator for fresh adjudication. Aggrieved against the said order, HSIIDC has approached this court taking several pleas.

3. Notice of motion has been issued in the matter, pursuant to which appearance has been caused on behalf of the respondent.

4. Without going into the merits of the case or any of the pleas taken up by the appellants herein, this court is of the considered opinion that the Addl. District Judge, Sonipat has erred in remanding the matter back to the Arbitrator for a decision afresh, in view of the judgment rendered by the Apex Court in ***Kinnari Mullick vs. Ghanshyam Das Damani, 2017(3) RCR (Civil) 251***, which was subsequently followed in ***Radha Chemicals vs. Union of India, 2018(4) Law Herald (SC) 2913***. Both these judgments categorically hold that the court does not have the jurisdiction to remand the matter back to the Arbitrator for a fresh decision.

5. In view of the above settled proposition of law, the impugned order dated 21.12.2013 is hereby set aside and the matter is remanded back to the District Judge, Sonipat for deciding the matter afresh in view of the Section 34(2) of the Act. The parties are directed to appear before the District Judge, Sonipat on 05.07.2019. Since the matter has been pending adjudication for a considerable length of time, the District Judge, Sonipat is

requested to take up the matter and decide the said objection petition within a reasonable period of six months.

6. The appeal stands disposed of accordingly.

May 14, 2019
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No