

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

**(1)**

**FAO No.2126 of 2018 (O&M)**  
Date of Decision: April 08, 2019

Amarbir Singh

...Appellant

Versus

Shriram Transport Finances Co. Ltd. and others

...Respondents

**(2)**

**FAO No.2129 of 2018 (O&M)**

Amarbir Singh

...Appellant

Versus

Shriram Transport Finances Co. Ltd. and others

...Respondents

**(3)**

**FAO No.2133 of 2018 (O&M)**

Amarbir Singh

...Appellant

Versus

Shriram Transport Finances Co. Ltd. and others

...Respondents

**(4)**

**FAO No.2616 of 2018 (O&M)**

Amarbir Singh

...Appellant

Versus

Shriram Transport Finances Co. Ltd. and others

...Respondents

(5)

**FAO No.2624 of 2018 (O&M)**

Amarbir Singh

...Appellant

Versus

Shriram Transport Finances Co. Ltd. and others

...Respondents

(6)

**FAO No.2625 of 2018 (O&M)**

Amarbir Singh

...Appellant

Versus

Shriram Transport Finances Co. Ltd. and others

...Respondents

(7)

**FAO No.2631 of 2018 (O&M)**

Amarbir Singh

...Appellant

Versus

Shriram Transport Finances Co. Ltd. and others

...Respondents

(8)

**FAO No.2757 of 2018 (O&M)**

Amarbir Singh

...Appellant

Versus

Shriram Transport Finances Co. Ltd. and others

...Respondents

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Varun Katyal, Advocate  
for the appellant(s).

Mr. G.S. Sandhu, Advocate  
for respondent No.1-Finance Company.

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**JAISHREE THAKUR, J. (Oral)**

1. By this common order, this court shall dispose of all the above captioned 08 appeals bearing ***FAO Nos.2126, 2129, 2133, 2616, 2624, 2625, 2631 and 2757 of 2018*** titled as ***“Amarbir Singh vs. Shriram Transport Finances Co. Ltd. and others”*** as question of law in all the above-mentioned appeals is similar. For brevity, facts are being taken from ***FAO No.2126 of 2018***.

2. This is (FAO No.2126 of 2018) an appeal that has been filed seeking to challenge the order dated 16.01.2018 passed by the Additional District Judge, Amritsar, dismissing the objection filed under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') for setting aside the award dated 18.03.2016 passed by the Arbitrator.

3. In brief, a dispute arose between the appellant and respondent No.1-Finance Company, which led to proceedings being initiated under the Act. The Arbitrator came to be appointed, who gave his award dated 18.03.2016 allowing the claim of respondent No.1-Finance Company. The award passed was an ex parte award, which came to be challenged by the appellant herein before the Additional District Judge, Amritsar, who in turn dismissed the objections, primarily on the ground that there was non-compliance of the mandatory provision of Section 34(5) of the Act, which

reads as under;-

**“34. Application for setting aside arbitral award.—**

*xxx xxx xxx*

*(5) An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.”*

The Additional District Judge holding the said provision to be mandatory, came to hold that no prior notice had been issued by the appellant to the other party giving its intention of invoking proceedings under Section 34 of the Act. Aggrieved against the said order, the instant appeal has been filed.

4. Learned counsel appearing on behalf of the appellant contends that the lower court has erroneously dismissed the objection filed under Section 34 of the Act by holding that there was non-compliance of Section 34(5) of the Act, which order is not sustainable. He argues that the matter, in fact, stands settled in the judgment rendered by the Supreme Court in ***State of Bihar & Ors. vs. Bihar Rajya Bhumi Vikas Bank Samiti, 2018(5) RCR (Civil) 332*** in which the Supreme Court has clearly held that the provisions as mentioned in the said Section and inserted by the Amendment Act of 2016 are directory in nature and inaction of the same would lead to no consequence. In other words, if there is non-compliance of the said Section, the entire proceedings before the court could not be scuttled.

5. On the other hand, learned counsel appearing on behalf of respondent No.1 is not in a position to dispute the fact that the judgment, as cited, would be applicable to the facts and circumstances of the present case.

6. Resultantly, the impugned orders passed by the Additional District Judge, Amritsar are hereby set aside and the matters are remanded back to the District Judge, Amritsar for deciding the same on merits. The parties through their counsel are directed to appear before the District Judge, Amritsar on 02.05.2019.

7. The appeals stand allowed accordingly.

**April 08, 2019**  
*vijay saini*

**(JAISHREE THAKUR)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No