

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

FAO No.2108 of 2016 (O&M)

Date of Decision: September 11, 2019

Om Singh

...Appellant

Versus

M/s Tata Motors Finance Ltd.

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sandeep Vermani, Advocate
for the appellant.

Mr. Sandeep Suri, Advocate
for the respondent.

JAISHREE THAKUR, J. (Oral)

CM-18455-CII-2019

1. Allowed as prayed for.
2. Irrevocable power of attorney/loan-cum-hypothication-cum-guarantee agreement is taken on record as Annexure A-18.

FAO-2108-2016

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 05.02.2016 passed by the Addl. District Judge, Gurgaon (now Gurugram) whereby, the objections filed by the appellant under Section 34 of the Act, for setting aside the award dated 30.04.2010, have been dismissed primarily on the ground that the said objections were

filed beyond the period of limitation.

2. Learned counsel appearing on behalf of the appellant would contend that the Addl. District Judge has failed to take into account that there was non-compliance of Section 31(5) of the Act, insofar as that the appellant was never served with the copy of the award. It is submitted that it was only when the appellant was served in the execution proceedings that he was made aware of the award passed against him. It is contended that the award of the Arbitrator was an *ex parte* award and the appellant was never given an opportunity to defend himself.

3. Learned counsel appearing on behalf of the respondent urges that the Addl. District Judge, in any case, did not have the jurisdiction to entertain the objections petition, as filed. It is argued that a perusal of the loan-cum-hypothecation-cum-guarantee agreement entered into between the parties would clearly indicate that all disputes were to be settled through arbitration, which proceedings were to be held within the jurisdiction of courts at Mumbai. It is argued that on account of a dispute that arose between the parties, an Arbitrator was appointed at Mumbai in consonance with the agreement entered into, who passed his award. Therefore, the judgment rendered in the case of ***Indus Mobile Distribution Pvt. Ltd. vs. Datawind Innovations Pvt. Ltd. & Ors., 2017(7) SCC 678*** would be applicable to the facts of the instant case.

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 an Arbitrator at Mumbai, meaning thereby, the courts at Mumbai would have exclusive

jurisdiction to entertain the objections, if any filed under Section 34 of the Act.

5. In view of the above, the appeal is liable to be dismissed and so also the objections petition solely on the ground of jurisdiction.

6. Ordered accordingly.

7. 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.

September 11, 2019

vijay saini

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No