

**CR-494-2022 (O&M)**

**Date of decision : May 11, 2022**

**OM PARKASH GUPTA**

**.....Petitioner**

**Versus**

**MANAGING DIRECTOR, HSRDC LTD.**

**....Respondents**

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Ms. Veena Hooda, Advocate for the petitioner.

\*\*\*

**LISA GILL, J.**

Prayer in this revision petition is for setting aside order dated 20.08.2021 passed by the learned Additional District Judge, Narnaul whereby petitioner's application for adjourning execution proceedings sine die till the decision on petition under Section 34 of the Arbitration and Conciliation Act (for short – 'the Arbitration Act') filed by the petitioner is decided, has been rejected.

Admittedly, award dated 29.01.2006 was passed by learned Arbitrator allowing claim of the respondent against the petitioner. Petitioner has admittedly filed petition under Section 34 of the Arbitration Act challenging said award before the learned Additional District Judge, Narnaul. Leaned counsel for the petitioner candidly states that no interim order has been passed or interim relief afforded to the petitioner in said proceedings. In the meanwhile, petitioner filed application before the Executing Court seeking execution proceedings to be adjourned sine die to await decision of the petition under Section 34 of the Arbitration Act. Petition was dismissed vide impugned order dated 20.08.2021.

It is useful to refer to Section 36 of the Arbitration Act at this stage which reads as under:-

“36. Enforcement.—(1) Where the time for making an application to set aside the arbitral award under section 34 has expired, then, subject to the provisions of sub-section (2), such award shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), in the same manner as if it were a decree of the court.

(2) Where an application to set aside the arbitral award has been filed in the Court under Section 34, the filing of such an application shall not by itself render that award unenforceable, unless the Court grants an order of stay of the operation of the said arbitral award in accordance with the provisions of sub-section (3), on a separate application made for that purpose.

(3) Upon filing of an application under sub-section (2) for stay of the operation of the arbitral award, the Court may, subject to such conditions as it may deem fit, grant stay of the operation of such award for reasons to be recorded in writing:

Provided that the Court shall, while considering the application for grant of stay in the case of an arbitral award for payment of money, have due regard to the provisions for grant of stay of a money decree under the provisions of the Code of Civil Procedure, 1908(5 of 1908).

Learned counsel for the petitioner is unable to deny that as per Section 36(2) of the Arbitration Act, mere filing of objections under Section 34 of the Arbitration Act does not render an award unenforceable and there is no automatic stay of proceedings, unless a specific order in this respect is passed.

Keeping in view the facts and circumstances, no ground is made out for stay of execution proceedings in the absence of interim order in favour of the petitioner as above.

No other arguments has been addressed.

Revision petition being devoid of any merit is, accordingly,  
dismissed.

**May 11, 2022**

**(LISA GILL)**  
**JUDGE**

rts

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |