

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA 246/2020

Date of decision: 05.12.2022

Punjab Water Supply & Sewerage Board

.....Petitioner

Vs.

Jai Bhushan Malik and another

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vijay Kumar Kaushal, Advocate for the petitioner
Mr. Aakash Yadav, Advocate for
Mr. Kshitij Sharma, Advocate for the respondents.

Nidhi Gupta, J.

This transfer petition has been filed by the petitioner-Board seeking transfer of the objections filed by the Board under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter 'the Act'), from the Court of Additional District Judge, Sangrur to the Court of Additional District Judge, Patiala.

The short submission made by the learned counsel for the petitioner is that the seat of arbitration between the parties was at Patiala and therefore, as per order passed by Hon'ble Supreme Court in '**BGS SGS Soma JV v NHPC Ltd'**., Law Finder Doc Id # 1640616, Section 34 objections can

only be filed where the arbitral proceedings have been conducted. As such, even though objections u/s 34 of the Act were filed by the Board itself in Sangrur, yet, in view of above said position in law, transfer of the said proceedings was being sought to avoid possible subsequent legal lacuna that may result in dismissal of the objections on grounds of jurisdiction.

In response, it is submitted by the learned counsel for the respondents that pursuant to the Award dated April 10, 2019 even execution petition was filed by the respondent which has been allowed by Additional District Judge, Patiala vide order dated 1.6.2021; upon furnishing of personal bonds and security by the respondent/decreed holder as noted by the ld. Additional District Judge, Patiala in order dated 2.6.2021. Copies of orders dated 1.6.2021 and 2.6.2021 passed by Additional District Judge, Patiala in EXE/487/2019 have been produced in Court and the same are taken on record. It is submitted that accordingly present Transfer Petition has been rendered infructuous as the objections under Section 34 filed by the petitioner have been rendered irrelevant, in view of the fact that even execution has been satisfied in this present case.

I have heard learned counsel for the parties.

A perusal of the record shows that Execution Application was filed by the respondents at Patiala on 10.5.2019 and Objections under Section 34 were filed by the petitioner on 11.7.2019 at Sangrur (Annexure P-4). Moreover, a perusal of the order dated 1.6.2021 passed by the Additional District Judge, Patiala in the aforementioned Execution Application shows that it has been clearly recorded therein that the Decree-holder/ respondent herein has undertaken to abide by final outcome of the objection petition filed by the petitioner under Section 34. There is no doubt that as per law laid down

by the Hon’ble Supreme Court, seat of arbitration alone would have exclusive jurisdiction over subsequent proceedings. Accordingly, in view of the above said position in law, this transfer petition is allowed and Section 34 Objections petition (P-4) filed by the petitioner is hereby transferred from the Court of ADJ, Sangrur to the Court of Id. ADJ, Patiala.

Pending application(s),if any, also stand disposed of.

05.12.2022.
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No