IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-1752-2022 (O&M)
Date of decision : August 31, 2022

J.K. Sabharwal **.....Petitioner**

Versus

G.D. Vashishat and Associates Pvt. Ltd. and others **....Respondents**

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. J.K. Sabharwal, petitioner in person.

***

LISA GILL, J.

CM-5572-CII-2022

Allowed as prayed for.

CR-1752-2022

This revision petition has been filed for setting aside orders dated 23.08.2021 and 17.03.2017 passed by the learned Additional District Judge, Ambala.

Brief facts necessary for adjudication of this matter, are that the petitioner obtained Domain Name with Sponsoring Registrar. Objection was filed to the Domain Name granted to the petitioner by respondent No. 1. Matter was referred to Arbitration which was conducted at Gurugram. Award dated 17.10.2011 (Annexure P3) was passed in favour of respondent No. 1. Present petitioner challenged abovesaid award by way of filing petition under Section 34 of Arbitration and Conciliation Act, 1996 (for short – 'Arbitration Act') at

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Ambala, which was dismissed on 02.02.2015 on the ground that there is no arbitration agreement. FAO-3782-2015 filed by the petitioner before this High Court was allowed on 29.09.2016 with order under challenge being set aside and the matter remanded to the learned objecting Court with the observations that on one side objections were dismissed being not maintainable, there being no arbitration agreement and the Award also being upheld on the other hand. Learned objecting court was directed to decide the matter afresh preferably within five months from the date of receipt of certified copy of the order.

Consequent to order of remand, matter was decided afresh by the learned Additional District Judge, Ambala vide order dated 17.03.2017. Petition under Section 34 of the Arbitration Act filed by the petitioner was dismissed on the ground of not being maintainable at Ambala as respondent No. 1 was at Delhi with Sponsoring Registrar at Mumbai and arbitration being conducted at Gurugram.

Petitioner challenged order dated 17.03.2017 by way of FAO-4678-2017 before this High Court but the appeal was dismissed being devoid of any merit on 14.12.2018.

Thereafter, petitioner filed application dated 15.04.2021 under Sections 151, 152, 153 CPC to re-consider the findings/judgment dated 17.03.2017 passed by learned Additional District Judge, Ambala with the prayer being made during the course of arguments before the learned Additional District Judge that words ‘re-considering the findings/judgment dated 17.03.2017’ be read as ‘amending the findings/ judgment dated 17.03.2017’. Said application has been dismissed by the learned Additional District Judge, Ambala vide impugned order dated 23.08.2021 while observing that inherent powers under Section 151 CPC cannot be invoked as sought by the petitioner and the following limitations stand imposed on exercise of inherent powers:-

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(i) They can be exercised only in the absence of express provision in the code;
(ii) They cannot be exercised in conflict with express provision in the code;
(iii) They can be exercised in exceptional cases;
(iv) While exercising the powers, the court has to follow the procedure prescribed by the legislature;
(v) Courts cannot exercise jurisdiction not vested in them by law;
(vi) To abide by the doctrine of res judicata i.e. not to open the issues which have already been decided finally;
(vii) To direct an arbitrator to make an award afresh;
(viii) To restrain a party from taking proceedings in a court of law;
(ix) To set aside an order, which was right at the time of its passing.

In respect to powers under Section 152 CPC, it is observed that power thereunder can be used for correction of any clerical or arithmetical mistakes in judgment, decree or order arising from any accidental slip or omission, which is not the case in the present matter where the petitioner seeks to re-open the entire controversy on merits and seeks setting aside of Award dated 17.10.2011 after 'amending' the findings in decision dated 17.03.2017. Application filed by the petitioner was accordingly, dismissed. Aggrieved therefrom, present petition has been filed.

Petitioner, who appears in person, has argued that manifest injustice has been caused to him as an invalid and illegal award dated 17.10.2011 was passed, which came to knowledge in around January, 2012. Petitioner in fact raises arguments on the merits of the matter yet again, which is clearly not permissible in the given factual matrix. It is a matter of record that after the matter was remanded by this Court vide order dated 29.09.2016 in FAO-3782-2015,

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petition under Section 34 of Arbitration Act filed by the petitioner was dismissed by the learned Additional District Judge, Ambala on 17.03.2017. Thereafter, appeal (FAO-4678-2017) filed by the petitioner challenging said order dated 17.03.2017 was also dismissed by this High Court on 14.12.2018. Admittedly, petitioner did not challenge order dated 14.12.2018. Petitioner is unable to point out as to how his application dated 15.04.2021 under Sections 151, 152, 153 CPC, is maintainable. It is clearly not for the learned Additional District Judge or even this Court to re-open the merits of the matter, which has attained finality with passing of order dated 14.12.2018 in FAO-4678-2017 filed by the petitioner.

Petitioner is unable to point out any illegality, infirmity and irregularity in impugned order dated 23.08.2021 passed by the learned Additional District Judge, Ambala. Insofar as order dated 17.03.2017 is concerned, as has been narrated in the foregoing paras, there is no ground for interference and this petition is not maintainable in view of the matter having attained finality after passing of order dated 14.12.2018 in FAO-4678-2017 which was admittedly not subjected to any challenge.

No other argument has been addressed.

Accordingly, present revision petition is dismissed.

(LISA GILL)
JUDGE

August 31, 2022
rts

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

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