

**111 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CR-1189-2023**

**Date of Decision: 22<sup>nd</sup> February, 2023**

National Commodities Management Services Limited ... Petitioner

Versus

The Haryana State Co-operative Supply and Marketing Federation Limited  
(HAFED) ... Respondent

**CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Gaurav Chopra, Sr. Advocate with  
Mr. Karan Gupta, Advocate for the petitioner.

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**AVNEESH JHINGAN , J.(Oral)**

1. This revision petition is filed for setting aside the order dated 10.2.2023 passed by the Executing Court.

2. Brief facts are that the parties entered into Stock Management Agreement and the clause provided for mechanism for dispute resolution through arbitration. The arbitration proceedings culminated into award dated 12.11.2018 which was further clarified vide order dated 14.1.2019.

3. The respondent aggrieved of the award filed objections under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') and thereafter, an application under Section 36 of the Act was filed. Vide order dated 6.8.2021 stay was granted in favour of the respondent. The order was challenged before this Court by way of CR-1599-2021. The impugned order was set aside and the matter was remanded back to revisit the issue of stay and pass an appropriate order. After remand, Executing Court passed order dated 10.2.2023, hence the present petition.

4. The operational part of the impugned order is reproduced below:-

*‘In view of the afore-mentioned submissions advanced by learned counsels this court does not deem it just to proceed further in respect to this execution petition at this stage and deems it appropriate to adjourn the matter for 06.03.2023. However, needless to mention that if proceeding in the matter before the learned court at Chandigarh does not take place for considerable time then the DH shall have every right to make an appropriate request to this court for execution of present execution petition in accordance with law.’*

5. Learned Senior counsel for the petitioner submits that the order of the Executing Court results in a virtual stay during the pendency of the stay application. He relied upon the decision of the Supreme Court in ***'Board of Control for Cricket in India vs. Kochi Cricket Private Limited and others, (2018) 6 SCC 287*** to submit that merely pendency of the objections under Section 34 of the Act does not amount to automatic stay.

6. From the perusal of the order, it is evident that on one hand Executing Court had kept the matter for 6.3.2023 and in the same breath, it is mentioned that the decree holder shall have a right to make appropriate request to the Executing Court in case the proceeding before the Chandigarh Court takes considerable time.

7. Without commenting on merits of the case, the petition at this stage is disposed of with liberty to the petitioner to approach the Executing Court for expeditious disposal of execution petition.

8. There is no doubt that in eventuality of the petitioner raising an issue that there is no automatic stay, the same would be considered in accordance with law.

9. Since the main case has been decided, the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN )  
JUDGE

22<sup>nd</sup> February, 2023

*anuradha*

Whether reasoned/speaking  
Whether reportable

Yes/No  
Yes/No