

FAO No. 2053 of 1996

[1]

1876IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 2053 of 1996

Date of decision: 24th May, 2023

State of Punjab and others

Appellants

Versus

M/s S. A. Builders Ltd. and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Charanpreet Singh, AAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. This appeal under Section 39 of the Arbitration Act, 1940 is filed against the judgment of Civil Judge (Senior Division), Hoshiarpur.

2. On 8.1.2020, this Court passed the following order:

“In an appeal pertaining to the year 1996 learned State counsel requests for an adjournment.

In the interest of justice, last opportunity is granted to learned State counsel to argue the matter. However, the same shall be subject to payment of Rs.5,000/- as costs, to be deposited by the Poor Patient Welfare Fund, PGIMER, Chandigarh.”

3. Even today, learned counsel for the State has received no instructions regarding deposit of the cost as well as to enable him to pursue the matter. The seriousness with which the matter is being taken by the department is evident.

4. Section 39 of the Punjab Courts Act, 1918 (for short, 'the Act')

was substituted by Punjab Act No. 29 of 2006. The Section is reproduced below:

“Section 39

39. Appeals from Civil Judge (Senior Division) and Civil Judge (Junior Division).-(1) Save as aforesaid, an appeal from a decree or order of a Civil Judge (Senior Division) and Civil Judge (Junior Division), shall lie to the District Judge, irrespective of the value of the original suit.

(2) Subject to the provisions of sub-section (3), an appeal to the Court or the District Judge shall be heard by the District Judge or by an Additional District Judge.

(3) An Additional District Judge shall hear only such appeals, as the High Court may, be general or special order direct, or as the District Judge of the District may entrust to him.

(4) All appeals from a decree or order of a Civil Judge (Senior Division) and Civil Judge (Junior Division) pending in the High Court, irrespective of the value of the original suit, shall be transferred to the District Judge exercising ordinary territorial jurisdiction.

(5) The High Court may, by notification, direct that appeals lying to the District Judge from all or any of the decrees or orders passed in any original suit by an Civil Judge (Senior Division) or Civil Judge (Junior Division), shall be preferred to such other Civil Judge (Senior Division) and Civil Judge (Junior Division), as may be specified in the notification, and the appeals shall thereupon, be preferred accordingly, and the Court of such other Civil Judge (Senior Division) and Civil Judge (Junior Division) shall be deemed to be a District Court for the purpose of the appeals so preferred.”

5. As per amended Section 39 of the Act, an appeal from a decree or order of a Civil Judge, Senior Division/Junior Division shall lie to the

District Judge, irrespective of the value of the original suit. Section 39(4) of the Act stipulates that appeal from the order or decree of the Civil Judge, Senior Division/Junior Division, pending in the High Court shall be transferred to District Judge having the territorial jurisdiction.

6. In view of Section 39(4) of the Act, this appeal is transferred to District Judge, Hoshiarpur, subject to deposit of Rs.5,000/- imposed on 8.1.2020. An additional cost of Rs.5,000/- is further being imposed today for not complying with the order dated 8.1.2020 and on account of failure to give instructions to learned State Counsel in time. The cost shall be deposited in Poor Patients Welfare Fund, PGIMER, Chandigarh.

5. The appeal stands disposed of.

[AVNEESH JHINGAN]
JUDGE

24th May, 2023

mk

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |