

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4624 of 2014 (O&M)

DECIDED ON: 27th January, 2023

Bhadur Chand (deceased) through LRs

.....Appellants

VERSUS

Dina Nath and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Sunil Panwar, Advocate for appellants.

Mr. Ashish Gupta, Advocate for respondents.

AVNEESH JHINGAN, J (ORAL)

1. This appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') is against the order dated 1.2.2014 setting aside the ex-parte award of the Arbitrator and remanding the matter.
2. The appellants and respondents No. 1 and 2 were partners and partnership deed provided mechanism for dispute resolution through arbitration. An ex-parte award dated 17.5.2009 was passed. On 1.2.2014 the award was set aside on an application filed under Section 34 of the Act and the matter was remanded.
3. Learned counsel for the appellant relies upon the decision of Supreme Court in *Radha Chemicals Versus UOI*, 2019(1) Apex Court Judgements (SC) 330 to contend that the matter cannot be remanded in proceedings u/s 34 of the Act. He puts to challenge the findings recorded on merits in the impugned order.
4. In view of decision cited above, learned counsel for respondents is not in a position to dispute the legal position.

5. In view of the decision of Supreme Court in **Radha Chemicals (Supra)** the impugned order cannot be sustained. Without commenting upon the merits of the case, the impugned order is set aside and the mater is remitted back for deciding afresh the objection under Section 34 of the Act.
6. Parties shall appear before the Court concerned on 28.3.2023.
7. There is no doubt that the objection under Section 34 of the Act would be decided afresh without being influenced by the finding recorded in the impugned order.
8. Since the main case has been decided, pending application, if any is rendered infructuous.

27th January, 2023
reema

(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>