

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No. 355 of 2022 (O&M)

DECIDED ON: 25th January, 2023

Punjab State Warehousing Corporation

.....PETITIONER

VERSUS

M/s Guru Kirpa Rice Mills and another

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Harish Mehla, Advocate for
Mr. Athar Ahmed, Advocate for petitioner.

Mr. Rohan Mittal, Advocate for respondents.

AVNEESH JHINGAN, J (ORAL)

1. This writ petition is filed aggrieved of order dated 12.10.2021 rejecting the prayer for recalling the order dismissing the objection under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') in default.

2. The brief facts are that the dispute between the parties was referred to arbitrator. The arbitration culminated into award dated 25.9.2004. The petitioner filed objection under Section 34 of the Act. Due to non-appearance of counsel, the objections were dismissed in default on 12.2.2015. The application for restoration of the petition was filed, it was also dismissed due to non-appearance of counsel on 16.5.2018. Another application filed for restoration met the same fate.

3. Learned counsel for the petitioner submits that the petitioner had engaged the counsel, paid his fee but due to his non-appearance, the orders of dismissal in default were passed.

4. Learned counsel for respondent opposes the prayer made in petition and submits that the respondent is Senior citizen having medical issues and non

appearance was only a tactics to delay the proceedings.

5. The Supreme Court in *Rafiq and another v. Munshilal and another* 1981 AIR 1400 held that party should not be made to suffer for inaction, deliberate omission of the counsel.

6. The objections were not decided on merit, were dismissed in default due to non appearance of the counsel and it resulted denial of remedy to the petitioner u/s 34 of the Act. The orders dated 12.2.2015 and 16.5.2018 are set aside, subject to payment of costs of Rs. 25,000/- to the respondent.

7. Considering that the award is of year 2004, it would be desirable that the objections under Section 34 of the Act are decided within four months from the date of the receipt of the certified copy. No unwarranted adjournments would be granted to either of the parties.

8. The petition is allowed.

9. Since the main case has been disposed of, pending application, if any is rendered infructuous.

25th January, 2023

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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>