

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

FAO-6912-2018 (O&M)

Date of Decision: 10th March, 2023

Indian Oil Corporation Ltd. and another

... Appellants

Versus

Satish Kumar and another

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. M.S. Rana, Advocate for
Mr. Ashish Kapoor, Advocate for the appellants.
Mr. Deepak Gupta, Advocate for the respondent.

AVNEESH JHINGAN , J.(Oral)

CM-24410-CII-2018

This is an application for condonation of delay of twelve days
in re-filing of the present appeal.

For the reasons mentioned in the application, same is allowed.

FAO-6912-2018

1. This appeal under Section 37 of Arbitration and Conciliation Act, 1996 (for short 'the Act') is filed aggrieved of the order dated 26th March, 2018 deciding the objections filed by the respondent under Section 34 of the Act.
2. Brief facts are that respondent No. 1 (hereinafter referred as 'the respondent') was allotted SKO Agency at Faridkot. The terms and conditions provided for dispute resolution through arbitration. The arbitration proceedings culminated in award dated 30th May, 2014. Respondent filed the objections under Section 34 of the Act which were allowed. The award was set aside and the matter remanded to arbitrator with direction to conclude the proceedings, preferably within six months.

3. The grievance raised by learned counsel for the appellants is that as per directions of Supreme Court in *Kinnari Mullick and another v. Ghanshyam Das Damani*, (2018) 11 SCC 328 and *Mcdermott International Inc. v. Burn Standard Co. Ltd. and others*, (2006) 11 SCC 181 the District Judge can not remand the matter for arbitration.

4. Learned counsel for the respondent in view of the decisions of the Supreme Court cited above is not disputing the legal position. However, submission is that the parties be granted liberty to avail remedies in accordance with law.

5. The Court in exercise of powers under Section 34 of the Act can neither remand the matter nor modify the award, consequently, the impugned order only to extend remanding the matter back is set aside.

6. Needless to say that parties shall be at liberty to avail remedies in accordance with law including seeking fresh arbitration.

7. The appeal is disposed of.

(AVNEESH JHINGAN)
JUDGE

10th March, 2023

Parveen Sharma

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No