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

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Date of decision:-15.10.2024

Subhash Chander Garg, Govt. Contractor

...Petitioner

Versus

National Buildings Construction Corporation Ltd. and another

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.P.S. Rana, Advocate and
Mr.G.S. Rana, Advocate
for the petitioner.

Mr.Vikrant Pachnanda, Advocate and
Mr.Rohan Mittal, Advocate
for respondent No.1.

Service of respondent No.2 was dispensed with
by this Court vide order dated 06.02.2024.

SUVIR SEHGAL, J.(ORAL)

1. By way of present revision petition filed under Article 227 of the Constitution of India, petitioner has approached this Court for setting aside impugned order dated 24.11.2022 passed by the learned Additional District Judge, Bhatinda, whereby application filed by the petitioner under Section 29-A of the Arbitration and Conciliation Act, 1996 (for short "the Arbitration Act") has been declined.

2. Mr. P.S. Rana, counsel for the petitioner submits that work of construction of 150 bedded hospital at Amritsar was allotted to the petitioner and a contract agreement was entered into between the parties.



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He submits that some disputes arose and the petitioner filed two separate applications under Sections 8 and 9 of the Arbitration Act, which were dismissed by the learned Civil Judge (Sr.Divn.), Bhatinda vide order dated 24.02.2003, Annexure P1, as the respondents had appointed an arbitrator during the pendency of the applications. He submits that in appeal filed by the petitioner, order, Annexure P1, was set aside and the matter was remitted for decision afresh. Counsel submits that respondent No.1 filed a revision petition (CR-5515 of 2004) before this Court, which was disposed of on 24.07.2006, Annexure P3, and all the disputes between the parties were referred to the Arbitrator already appointed. He asserts the arbitral proceedings could not be concluded within the time period provided under the statute as there was a repeated change in the arbitrators and on 19.02.2019, Annexure P6, proceedings were adjourned sine die to enable the parties to seek extension of time. He submits that an application dated 17.05.2019, Annexure P7, was filed by the petitioner under Section 29A of the Arbitration Act before the learned Additional District Judge, Bathinda which, upon notice, was contested by the respondents by filing a reply, Annexure P8. He urges that the learned Additional District Judge, has rejected the application vide impugned order without even noticing the averments made in the application or appreciating the controversy involved in the matter.

3. Opposing the prayer, Mr.Vikrant Pachnanda, counsel for respondent No.1 has argued that Section 29-A of the Arbitration Act does not apply to the present proceedings, which were initiated prior to the introduction of the provision in the statute w.e.f. 23.10.2015. He has placed reliance upon the judgment of the Supreme Court in Tata



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Sons Private Limited Versus Siva Industries and Holdings Limited and others (2023) 5 SCC 421. Another argument has been raised by him that the Court at Bhatinda did not have the territorial jurisdiction to entertain the application as the seat of arbitration was fixed at New Delhi. He has drawn strength from the judgment of the Apex Court in **BGS SGS Soma JV Versus NHPC Ltd., 2020 (4) SCC 234.**

4. I have heard counsel for the parties and considered their respective submissions.

5. It is apposite to notice and reproduced hereunder the cryptic order passed by the learned Additional District Judge, Bhatinda, which has been questioned herein:

*“In the present petition, the petitioner(s)/applicant(s) under the provisions of Arbitration and Conciliation Act, 1996, has/have assailed the award before the Civil Court at Bathinda, which was passed at **Delhi**.*

*To this situation, in view of observations made by the Hon`ble Supreme Court of India in case **BGS SGS Soma JV Vs. NHPC Ltd. In Civil appeal No.9307 of 2019 (Arising out of SLP (Civil) No. 25618 of 2018) D/d 10.12.2019 and recently by our own Hon`ble High Court while deciding a bunch of petitions, including CR No. 259 of 2022 (O&M), titled as ‘National Highway Authority of India and another Vs. Yashpreet Singh and another’, decided on 30.9.2022, this Civil Court at Bathinda lacks territorial jurisdiction to entertain and decide the present petition/application under Arbitration and Conciliation Act, 1996, by the reasons of seat of arbitrator remained at **Delhi**.***



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Hence, the present petition/application is hereby rejected for want of territorial jurisdiction, with liberty to the petitioner (s)/applicant (s) to assail the impugned award before the competent Civil Court, having territorial jurisdiction, as per the observations of aforesaid citations, within one month from today.

The Ahlmad concerned is directed to return the petition and necessary documents to the parties concerned under rules against proper receipt by retaining the copies thereof on record along with papers of judicial proceedings. Requisitioned award proceedings/record be returned to the office of Arbitrator/Department concerned forthwith.

File be consigned to the record room.”

6. A bare perusal of the above reproduced order shows that the Court has completely misdirected itself and has overlooked the prayer made in the application. The Court has passed the impugned order by treating the petitioner's application for extension of time as objections under Section 34 of the Arbitration Act. The Court has probably not even examined the contents of the application as it has failed to deal with the reasons given in the application on the basis of which extension for culmination of the arbitral proceedings was being sought. Examination of the reasons for extension of time was mandatory for the Court in view of the judgment delivered by the Supreme Court in **Rohan Builders (India) Private Limited Versus Berger Paints India Limited, 2024 SCC OnLine SC 2494**. As learned Additional District Judge, Bhatinda has not dealt with the application on merits and has

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proceeded on an unfounded premise, the impugned order cannot be sustained.

7. Without adverting to the merits of the application, impugned order dated 24.11.2022 is set aside, matter is remitted to the Court of learned Additional District Judge, Bhatinda to decide the application afresh after hearing the counsel for the parties. Liberty is granted to the parties to raise all the pleas before the Court concerned.

8. Petition is disposed of.

9. Parties are directed to appear before the learned Additional District Judge, Bhatinda on 10.12.2024 for further proceedings in accordance with law.

(SUVIR SEHGAL)
JUDGE

15.10.2024
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No