



FAO-5828-2019 (O & M)

-1-

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

233

FAO-5828-2019 (O & M)
Date of decision:13.05.2024

M/S TULIP YARNS AND ANOTHER

...APPELLANTS

VS.

M/S MAGMA FINCORP LIMITED AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sumit, Advocate for
Mr. Chandra Kumar Jha, Advocate
for the appellants.

Mr. Vijiyesh Malhotra, Advocate
for respondents No.1 and 2.

SUVIR SEHGAL J. (ORAL)

1. Instant appeal has been filed assailing order dated 06.08.2019 passed by the learned Additional District Judge, Ludhiana, whereby an application filed by respondents No.1 and 2, has been accepted and the objections filed by the appellants under Section 34 of the Arbitration and Conciliation Act, 1996, (for short "the Act"), have been dismissed.

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

3. The sole ground for consideration is whether the provision of Section 34 (5) of the Act is mandatory. This question stands answered by

the Supreme Court in State of Bihar and others Versus Bihar Rajya Bhumi Vikas Bank Samiti 2018 (5) R.C.R. (Civil) 332, has held that the provision of Section 34 (5) of the Act is not mandatory, rather it is a procedural provision and its infraction is of no consequence. Supreme Court is of the view that in case, the provision is considered as mandatory it would defeat the advancement of justice.

4. Consequently, impugned order passed by the learned Additional District Judge, Ludhiana, is set aside. As the objections filed by the appellants have not been considered on merit, matter is remitted to the Court concerned to decide the objections on merits after hearing both the sides.
5. Appeal is disposed of.
6. Parties are directed to appear before the learned Additional District Judge, Ludhiana, on 22.07.2024 at 10.00 A.M.
7. Pending application(s) are disposed of.

13.05.2024

(SUVIR SEHGAL)

sheetal

JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No