

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Partha Sarathi Sen

CO 232 of 2024

**Mahananda Sporting Club
Vs.
Siliguri Mahakuma Krira Parisad & Anr.**

For the petitioner : Mr. Pritam Roy
Ms. Silpi Basu

For the opposite party no. 2 : Mr. Deborshi Dhar

Heard on : 09.01.2025

Judgement on : 09.01.2025

PARTHA SARATHI SEN, J.:

1. In this revisional application as filed under Article 227 of the Constitution of India, the order no. 68 dated 12.09.2024 as passed by the learned District Judge, Darjeeling in Misc. Arbitration Case No. 59 of 2016 has impugned. By the impugned order, learned District Judge has been pleased to reject the petitioner's application for addition of party as filed under Order I Rule 10 of the Code of Civil Procedure in an arbitration proceeding under Section 34 of the

Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the said Act of 1996').

2. For effective adjudication of the instant revisional application, the facts leading to filing of the instant *lis* are required to be dealt with in a nutshell and those are as under:

- i) The opposite party no. 1 i.e., Siliguri Mahakuma Krira Parisad organized a football league championship for the year 2016-17, wherein the petitioner and the opposite party no. 2/club have participated;
- ii) In the said league, the opposite party no. 2/club herein was declared champion;
- iii) The petitioner/club as well as some other clubs who participated in the said league subsequently came to learn about some unauthorized activities on the part of the opposite party no. 2 i.e., participation of the opposite party no. 2 in the said league with some unauthorized players and accordingly, a complaint was lodged with the opposite party no. 1/Parisad;
- iv) The opposite party no. 1/parisad found substance in the complaint made by the petitioner/club and the said opposite party no. 1/parisad, ultimately, took a decision whereby and whereunder the petitioner/club was declared champion

in the said league and by that way the championship title of the opposite party no. 2/club was taken away;

v) The opposite party no. 2/club felt aggrieved and the said club referred the matter to arbitration as per rules of the opposite party no. 1, however, in the said arbitration, award was passed against the opposite party no. 2;

vi) Challenging the said arbitral award, the opposite party no. 2 filed an application under Section 34 of the said Act of 1996 before the learned trial Court which has been registered as Misc. Arbitration Case No. 59 of 2016;

vii) In the said arbitral proceeding, the petitioner/club filed an application for addition of party under Order I Rule 10 CPC which was rejected by the learned District Judge, Darjeeling by passing the impugned order.

3. Mr. Roy, learned advocate for the petitioner/club at the very outset draws attention of this Court to the petition under Section 34 of the said Act of 1996 as filed by the opposite party no. 2 before the learned District Judge. It is submitted that in the said petition under Section 34 of the said Act of 1996, the petitioner has prayed for setting aside the award with a further prayer to declare the opposite party no. 2 as champion in the football league tournament as conducted by the opposite party no. 1/Parisad herein.

4. It is submitted by Mr. Roy that in the said application under Section 34 of the said Act of 1996, the present petitioner/club was not made opposite party. It is further submitted by Mr. Roy that in the event, the prayer as made under Section 34 of the Said Act of 1996 is allowed by the learned District Judge, a valuable right of the present petitioner is going to be affected since it would take away the title of championship as awarded by the opposite party no. 1/Parisad in respect of the said league championship.
5. It is thus submitted by Mr. Roy that the learned District Judge has failed to visualize that the present petitioner is not only the necessary party but also a proper party and, therefore, a serious miscarriage of justice had occurred in not allowing the petitioner's application for addition of party in the said arbitral proceeding.
6. Per contra, Mr. Dhar contends before this Court that the petitioner/club was not a party to the arbitration proceeding. It is further argued by Mr. Dhar that Section 2H of the said Act of 1996 defines 'party' which means 'party to an arbitration agreement'. It is thus submitted by Mr. Dhar that in view of such legal proposition, the present petitioner/club cannot be held to be a necessary and proper party as wrongly claimed. Mr. Dhar thus submits that no occasion arises for interference in the impugned order.
7. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the

contending parties, it appears to this Court that in the application under Section 34 of the said Act of 1996, the opposite party no. 2 herein had challenged the award as passed against him and had made the following prayers:

“Under the circumstances it is humbly prayed that the Ld. Court may be pleased to set-aside the order dated – 31/10/2016 passed by the arbitration committee in reference No. GTSC/SMKP/F/16-17/14.

And it is further prayed before your Honour to pass such order/orders granting stay of the said arbitration award dated 31.10.2016 up holding decision of the siliguri Mahakuma Krira Parishad/respondent 05.09.2016 so that the Siliguri Mahakuma Krira Parishad/respondent may not proceed with any super division football league till the disposal of the present appeal.

And also to pass order declaring that relegating of the petitioner club in the league table of the said session and declaring the League Championship to Mahananda Sporting Club, siliguri, by holding the prize distribution ceremony on 15.09.2016 also be illegal and not duly done by them/respondent during the pendency of the reference petition on behalf of the petitioner submitted on 14.09.2016 in haste and arbitrary manner.

And that the petitioner club on the basis of winning match in the super division Football League for the session 2016-17 earning highest point in the League table is the champion for the said super Division Football League.

And also pleased to pass such other order/orders as the Ld. Court may deem fit and proper for the ends of justice.”
(emphasis supplied by me).

8. On close scrutiny of the said petition under Section 34 of the said Act of 1996, it thus appears to this Court that in the event, the petition under Section 34 of the said Act of 1996 as filed by opposite party no. 2 herein as pending before the learned District Judge is allowed the same way took away valuable right as accrued in favour of the present petitioner.
9. This Court is conscious that Section 34 of the said Act of 1996 deals with the limited scope for challenging the arbitral award, however, the said section and/or any other sections of the said Act of 1996 do not restrict any person to become a party in a proceeding under Section 34 of the said Act of 1996, especially when, it is shown that in the event, the prayer as made under Section 34 of the said Act of 1996 is allowed that would affect the right of another person though he is not a party to the arbitration proceeding.
10. As rightly pointed out by Mr. Roy that in the event, the prayer as made in the said application under Section 34 of the said Act of 1996 is allowed without giving an opportunity of hearing to the present petitioner, the principle of natural justice would be violated especially when there is every appreciation in the mind of the present petitioner that his right is going to be affected if the said application is allowed.

11. This Court thus finds sufficient merit in the instant revisional application.
12. Accordingly, the instant revisional application is allowed. Consequently, the impugned order no. 68 dated 12.09.2024 as passed by the learned District Judge, Darjeeling in Misc. Arbitration Case No. 59 of 2016 is set aside.
13. Consequently, the petitioner's application under Order I Rule 10 CPC as filed before the learned District Judge, Darjeeling stands hereby allowed.
14. Consequently, the learned District Judge, Darjeeling is directed to add the present petitioner as respondent/opposite party no. 2 in Misc. Arbitration Case No. 59 of 2016. The petitioner of Misc. Arbitration Case No. 59 of 2016 is directed to serve a copy of petition under Section 34 of the said Act of 1996 to the opposite party no. 2 (the petitioner herein) forthwith.
15. Liberty is given to the present petitioner to file its written objection in the said arbitration proceeding positively within a month from the day of receipt of the copy of the said petition under Section 34 of the said Act of 1996.
16. Learned District Judge, Darjeeling is hereby requested to dispose of the Misc. Arbitration Case No. 59 of 2016 as expeditiously as possible.
17. Liberty to communicate.

18. With the aforementioned observations, the instant revisional application being **CO 232 of 2024** is thus disposed of.
19. Learned District Judge, Darjeeling is directed to act on the server copy of this order.
20. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)

**Sourav
A.R. (Court)**