



FAO-8336-2015(O&M)

-1-

216

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

**FAO-8336-2015 (O&M)
Date of Decision: 26.11.2025**

Ram Chand

.... Appellant

Versus

M/s Shriram Transport Finance Company Ltd. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. H.S. Dhandi, Advocate
for the appellant.

None for the respondents.

JASGURPREET SINGH PURI, J. (ORAL)**CM-26375-CII-2015**

The present application has been filed for condonation of delay of 14 days in re-filing the present appeal.

The present appeal was filed in the year 2015.

Learned counsel for the applicant/appellant submitted that the present appeal was filed within time but there was a delay of 14 days in re-filing because of the objections raised by the Registry.

In view of the grounds stated in the application, the same is allowed and the delay of 14 days in re-filing the present appeal, is hereby condoned.

Main Case:

1. The present is a first appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') challenging the order dated 15.07.2015 passed by learned District Judge,



FAO-8336-2015(O&M)

-2-

Chandigarh vide which the objections under Section 34 of the Act filed by the appellant against the arbitral award dated 02.09.2013 have been dismissed.

2. Today, none has caused appearance on behalf of the respondent and same was the position on the last date of hearing.

3. The present appeal is of the year 2015 and learned counsel for respondent is not appearing, therefore, this Court has heard learned counsel for the appellant and has also perused the record.

4. Mr. H.S. Dhandi, learned counsel for the appellant submitted that an agreement was executed between the appellant and the respondent with regard to amount being given by the respondent to the appellant for a bus. In the aforesaid agreement, there exists a valid arbitration clause which provides that in case any dispute arises between the parties pertaining to the agreement, the respondent-Company will nominate or appoint an Arbitrator. He further submitted that the respondents without informing the appellant appointed an Arbitrator of their own without even issuing any notice to the appellant. Thereafter, a Sole Arbitrator was appointed and learned Sole Arbitrator also did not inform the present appellant with regard to the pendency of the arbitration proceedings and in this way, an *ex parte* award was passed against the appellant. He submitted that when the appellant filed objections under Section 34 of the Act before learned District Judge, Chandigarh, he had raised various grounds but the same were not considered by learned District Judge. In this regard, he referred to Para Nos.10 & 11 of the aforesaid objections filed by the appellant wherein the appellant specifically averred that the agreement between the parties was not a valid agreement and it was a one sided agreement and no notice was given to him



before appointment of the Sole Arbitrator and the respondent was not competent to appoint the Sole Arbitrator unilaterally. He further submitted that the aforesaid grounds were not even considered by learned District Judge while deciding the objections under Section 34 of the Act and it is a settled law that the grounds which have been taken, are required to be considered by the Court while adjudicating the objections and referred to a judgment passed by Hon'ble Supreme Court in "*Kalanithi Maran Vs. Ajay Singh and another*", 2024 SCC Online SC 876 in this regard.

5. Learned counsel for the appellant further submitted that even otherwise also the impugned order passed by learned District Judge was contrary to the record itself and therefore, is liable to be set aside. While referring to the impugned order passed by learned District Judge, Chandigarh, he submitted that it has been so observed in Para No.7 that from the perusal of the award file, it transpires that the appellant was summoned through registered notice for 30.05.2013, but the same was received back with the remarks of 'Refusal' and thereafter, the appellant was summoned through publication. He submitted that the aforesaid finding was totally contrary to the record because the same does not find mention in the record and referred to the arbitral record which was produced before this Court and submitted that there is nothing on record to show that there was any refusal at all and rather the zimni orders passed by the Sole Arbitrator do not reflect the same. He further submitted that so far as the summons issued to the appellant through publication is concerned, the same was effected in one local newspaper of Himachal Pradesh on 17.07.2013 and the Sole Arbitrator had fixed the matter on 27.07.2013 and on that date, the appellant was proceeded *ex parte* and in this way, only 10 days' time was given and that



was also not in accordance with law and settled principle of law. He also submitted that the impugned order is not only perverse and against the record but is also liable to be set aside because the grounds taken by the appellant before learned District Judge were not even considered with regard to the validity of the arbitration agreement and unilateral appointment of the Arbitrator.

6. I have heard learned counsel for the appellant and also perused the arbitral record as well as the record of learned District Judge, Chandigarh.

7. A perusal of the grounds which the appellant had taken before learned District Judge while filing the objections under Section 34 of the Act would show that the appellant had specifically averred that the agreement between the parties was not a valid agreement and it was a one sided agreement and the Arbitrator cannot be appointed by the respondents unilaterally and also that no proper notice was given to him before the appointment of the Sole Arbitrator and rather it was also averred that the Sole Arbitrator was not competent for being appointed. The aforesaid Para Nos.10 & 11 of the objections filed under Section 34 of the Act are reproduced as under:-

“10. That the agreement between the parties was not valid agreement and it was one sided and arbitrator cannot be appointed by the respondent at their own.

11. That no proper notice was given by the of sole respondent No.1 before appointment of Sole Arbitrator and respondent No.1 was not competent to appoint respondent No.2 as Arbitrator on its own. The appointment of Arbitrator by respondent No.1 is not valid as Arbitrator has not been appointed as per the



provisions of Arbitration Act.”

8. A perusal of the impugned order passed by learned District Judge would show that the aforesaid grounds have not even been considered or discussed by learned District Judge while adjudicating the objections under Section 34 of the Act. Reference which has been made by learned counsel for the appellant to the judgment of Hon’ble Supreme Court passed in ***Kalanithi Maran’s case (Supra)*** is well placed. The relevant portion of the aforesaid judgment is reproduced as under:-

“2. Interference with an arbitral award under Section 34 must be confined to the grounds which are permissible under the statute. But equally, the Judge hearing an application under Section 34 must apply their mind to the grounds of challenge and then deduce as to whether a case for interference within the parameters of Section 34 has been made out. Reading the order of the Single Judge, we find no discernible reason which has weighed with the Single Judge. There has been no consideration of the arguments which were urged before the Single Judge.”

9. It was, therefore, imperative for learned District Judge to have considered the objections filed by the appellant under Section 34 of the Act and to have decided the same in accordance with law.

10. On the factual aspect a perusal of Para No.7 of the impugned order would show that learned District Judge has made specific observation that the summons which were sent by the Sole Arbitrator to the appellant through registered post were received back with the remarks of ‘refusal’ and thereafter, the publication was effected. A perusal of the Award passed by learned Sole Arbitrator would show that there is no such kind of remark of



refusal available on the file. A perusal of the zimni orders passed by learned Sole Arbitrator which were a part of the arbitral record would show that on 18.05.2013, by way of zimni order, learned Sole Arbitrator observed that he has issued registered notice to the parties directing them to appear on 30.05.2013 at 10.00 A.M. and thereafter, another order was passed on 30.05.2013 whereby it was so observed that in spite of the registered notice being sent to Mr. Ram Chand (Appellant) and one another person, namely, Krishan Negi but they failed to appear. There is nothing in any of the zimni/interlocutory orders passed learned Sole Arbitrator to even remotely suggest that there was refusal on the part of the appellant to have appeared before the Sole Arbitrator. It is not understandable as to from where the learned District Judge has made the aforesaid observation which is not available on the record. So far as the publication is concerned, only 10 days' time appears to have been given because the publication was effected on 17.07.2013 and the matter was fixed for 27.07.2013. Therefore, it is abundantly clear that the order passed by learned District Judge is contrary to the record being factually incorrect.

11. In view of the aforesaid facts and circumstances of the present case, the present appeal is allowed. The order dated 15.07.2015 passed by learned District Judge, Chandigarh is hereby set aside. The matter is remitted back to the District Judge to pass a fresh order with due application of mind and also uninfluenced by the earlier order passed by the District Judge and the present order passed by this Court. The fresh order shall be passed by learned District Judge within a period of four months from today after hearing both the parties. The record be sent back to the learned District Judge, Chandigarh.



12. Miscellaneous applications, if any, shall also stand disposed of since the main case has been allowed.

26.11.2025
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

- 1. Whether speaking/reasoned: Yes/No
- 2. Whether reportable: Yes/No