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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2674-2018 (O&M)
Date of decision: 17.11.2025

HARDIAL SINGH

...Appellant(s)

VERSUS

M/S PUNJAB KASHMIR FINANCE LTD. AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Malhar Singh Dhami, Advocate
for the appellant.

None for respondent No.1.

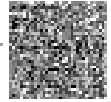
JASGURPREET SINGH PURI, J. (Oral)

1. The present appeal has been filed by the appellant challenging the order dated 24.01.2018 passed by the learned Additional District Judge, Jalandhar, whereby the objections under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') were dismissed.

2. As per the report of the registry, notice issued to respondent No.1 has been served, whereas respondents No.2 and 3 have not yet been served. Report of Registry regarding service upon respondent No.1 dated 17.07.2024 is reproduced as under:-

"Respondent No.1 – Notice served."

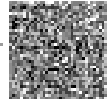
However, none has caused appearance on behalf of respondent No.1. This is an appeal of the year 2018.



3. Learned counsel for the appellant submitted that he does not wish to press the present appeal against respondents No.2 to 6 as they are proforma respondents and their service may be dispensed with.

4. Ordered accordingly.

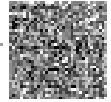
5. Learned counsel for the appellant submitted that it is a case where an agreement was entered into between respondent No.1, which is a finance company and the remaining respondents, under which respondent No. 1 had advanced a loan to them. He further submitted that so far as the appellant, namely, Hardial Singh is concerned, he was a guarantor regarding which there is no dispute. He submitted that when the appellant executed the document as a guarantor, he provided his address as House No.7034, Street No.03, Talwara, District Hoshiarpur in the guarantee document, which was in the nature of a loan agreement. However, when the learned Arbitrator issued summons to the appellant, which finds mention in the record, incorrect address was mentioned showing him as resident of House No.3034, Street No.03, Talwara, District Hoshiarpur, whereas in the loan agreement, the appellant who was a guarantor, was shown as residing at House No.7034, Street No.03, Talwara, District Hoshiarpur and in this way, the appellant never received the aforesaid summons issued by the learned Arbitrator and he was not even aware of the arbitration proceedings at all. He further submitted that in the award itself, on the very first page, the address of the appellant was again incorrectly stated as House No.3034, Street No.03, Talwara, District Hoshiarpur and in this way, the appellant was neither aware of the arbitration proceedings nor of the passing of the award.



6. He further submitted that thereafter, respondent No.1 initiated execution proceedings and in those execution proceedings as well, the appellant was never served but through other sources, after a few years when he came to know that an award had been passed against him, he immediately filed the objections under Section 34 of the Act, which were dismissed on two grounds. Firstly, the learned Additional District Judge, Jalandhar, rejected the submission of the appellant that he was not served on the ground that the address was correct as the summons had been received at that address. Secondly, the objections under Section 34 of the Act were barred by limitation.

7. Learned counsel for the appellant further submitted that both the aforesaid grounds for rejecting the objections filed by the appellant under Section 34 of the Act are totally against the record and therefore, the impugned order passed by the learned Additional District Judge, Jalandhar, is liable to be set aside. He further submitted that on the loan agreement, the address of the appellant was mentioned as House No.7034, Street No.03, Talwara, District Hoshiarpur, which is not in dispute and in the summons issued by the Arbitrator, the address of the appellant was incorrectly stated as House No.3034, Street No.03, Talwara, District Hoshiarpur and in this way, he was never served and it was even thereafter, when the execution application was filed that the same incorrect address was mentioned and he was never served in the execution proceedings and therefore, the findings of the learned Additional District Judge, Jalandhar, were totally perverse and against the record.

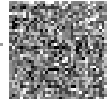
8. Mr. Dhami further submitted that it has been observed by the learned Additional District Judge, Jalandhar, that the appellant had received the



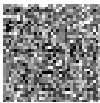
summons in the execution proceedings at the address given by him in the loan document i.e. House No.7034, Street No.03, Talwara, District Hoshiarpur, whereas in the execution proceedings itself, the address of the appellant was mentioned as House No.3034, Street No.03, Talwara, District Hoshiarpur and not House No.7034, Street No.03, Talwara, District Hoshiarpur and therefore, the finding is totally against the record. He further submitted that so far as the ground of limitation is concerned, once it is established that the appellant was never served with regard to the arbitration proceedings or even the award, then the period of limitation did not start for him and it was only from the time he gained knowledge of the award that he filed the objections under Section 34 of the Act and therefore, on this ground, the aforesaid impugned order is liable to be set aside.

9. I have heard the learned counsel for the appellant and also perused the records of the learned Additional District Judge, Jalandhar, the learned Arbitrator and the learned Executing Court.

10. One of the reasons for rejecting the objections filed by the appellant under Section 34 of the Act was that it cannot be said that the appellant was not served with the notice by the learned Arbitrator because when the appellant faced execution proceedings, he was sent notice at the same address as stated in the loan agreement and once he had received the summons on that address, then now he cannot take up a plea that the address was incorrect. This Court has perused the record of the learned Executing Court. The aforesaid finding of the learned Additional District Judge, Jalandhar, is totally perverse and against the record. A perusal of the proceedings of the



learned Executing Court would show that the address of the appellant in the execution was recorded as House No.3034, Street No.03, Talwara, District Hoshiarpur and not House No.7034, Street No.03, Talwara, District Hoshiarpur and twice the summons were sent to the appellant by the learned Executing Court, which were returned with a report that the appellant is not residing at this place and that it was not his address. Thereafter, service by way of publication was effected and on the basis of the publication, the learned Executing Court proceeded and therefore, the reasoning given and the observations made by the learned Additional District Judge, Jalandhar, in the aforesaid impugned order are absolutely contrary to the record. So far as the second aspect with regard to limitation is concerned, in accordance with the provisions of Section 34(2)(a) (iii) of the Act, one of the grounds for setting aside of the award is that the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case. Therefore, this itself constitutes a valid ground for setting aside the arbitration award, which could have been considered by the learned Court while exercising powers under Section 34 of the Act. From the record, it appears that the appellant was never served with the notice regarding the pendency of the arbitration proceedings due to the incorrect address. Thereafter, there is nothing on the record to show that the appellant received the award. Therefore, the second finding which was given by the learned Additional District Judge, Jalandhar, in the impugned order that the objections were barred by limitation, is also incorrect because according to the record, the appellant was never served.



11. In view of the aforesaid facts and circumstances, this Court is of the considered view that the impugned order passed by the learned Additional District Judge, Jalandhar, is the result of non-application of mind, is perverse and is against the record.

12. Consequently, the present appeal is allowed. The impugned order dated 24.01.2018 passed by the learned Additional District Judge, Jalandhar, is hereby set aside. The matter is remanded back to the learned Additional District Judge, Jalandhar, to pass a fresh order after giving adequate opportunity of hearing to the appellant or his counsel and after accurately perusing the entire record of the arbitral proceedings as well as the execution proceedings. It is made clear that a fresh order shall be passed with due application of mind and uninfluenced by the earlier order dated 24.01.2018 as well as the present order passed by this Court. The fresh order shall be passed by the learned Additional District Judge, Jalandhar, within a period of four months from the date of receipt of a certified copy of this order, strictly in accordance with law.

13. The original records shall be returned to the concerned Courts.

17.11.2025
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No