



235

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

**FAO-6058-2023 (O&M)
Date of decision: 15.09.2025**

M/S GURU KIRPA RICE MILLS AND ANOTHER

...Appellant(s)

VERSUS

**PUNJAB STATE WAREHOUSING CORPORATION LTD. AND
ANOTHER**

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Rohan Mittal, Advocate
for the appellants.

Mr. Anupam Singla, Advocate
for respondent No.1-Corporation.

JASGURPREET SINGH PURI, J. (Oral)

1. The present appeal has been filed under Section 37 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act'), challenging the judgment dated 25.05.2023 passed by the learned Additional District Judge, Ludhiana, whereby the arbitral award dated 25.09.2004 was set aside.

2. Learned counsel for the appellants submitted that it is a case where a dispute arose between the appellants and respondent No.1-Corporation and thereafter, the matter was referred to the learned Arbitrator. He further submitted that the learned Arbitrator passed an award dated 25.09.2004 vide Annexure A-1. However, at the time of passing the award, it was so ordered by



the learned Arbitrator under Section 38 and Section 39 of the Act that since the fee and cost had not been paid, he would keep a lien upon the award and in this way, he retained the original award and supplied copies thereof to both the parties. He further submitted that respondent No.1-Corporation instead of moving an appropriate application under Section 39 of the Act before the learned Court had filed objections under Section 34 of the Act. He further submitted that although various grounds were taken by respondent No.1-Corporation in the objection petition but the learned Additional District Judge, Ludhiana vide impugned judgment dated 25.05.2023, set aside the award solely on the ground that the learned Arbitrator had misconducted himself in rendering the award as the fee and cost were not paid.

3. Learned counsel for the appellants further submitted that the aforesaid creation of a lien by the learned Arbitrator was an exercise of his statutory powers under Section 39 of the Act and therefore, there was no question of impropriety or misconduct on the part of the learned Arbitrator and this was the only ground on the basis of which the aforesaid award was set aside, which was erroneous in nature. He further submitted that the consequence of non-payment of fee and cost to the learned Arbitrator by the parties is so incorporated under Section 39 of the Act and a procedure has to be followed in this regard by moving an appropriate application by either of the parties before the Court but respondent No.1-Corporation instead of moving any such application had straightaway filed objections under Section 34 of the Act. He further submitted that apart from the above, the learned Additional District Judge, Ludhiana set aside the award only on one ground as aforesaid



i.e. the learned Arbitrator acted improperly and misconducted himself by retaining the award under a lien. He also submitted that in this way, the impugned judgment passed by the learned Additional District Judge, Ludhiana, is liable to be set aside because the learned Arbitrator had only exercised his statutory powers and therefore, it cannot be termed as impropriety or misconduct.

4. On the other hand, learned counsel for respondent No.1 submitted that when respondent No.1-Corporation filed objections under Section 34 of the Act, numerous objections were taken. However, the aforesaid award was set aside on the ground that the learned Arbitrator had misconducted himself and acted with impropriety. He further submitted that there is no dispute with regard to the proposition of law that creation of a lien by the learned Arbitrator is permissible under Section 39 of the Act. He further submitted that he has no objection in case the aforesaid impugned judgment dated 25.05.2023 is set aside and the matter is remanded back to the learned Additional District Judge, Ludhiana for deciding the objections afresh by considering all the other objections taken by respondent No.1-Corporation before the learned Additional District Judge, Ludhiana and in accordance with law.

5. After hearing the learned counsels for the parties and considering the aforesaid submission made by learned counsel for respondent No.1-Corporation that he has no objection in case the matter is remanded back to the learned Additional District Judge, Ludhiana for deciding the objections afresh, this Court is of the view that when objections under Section 34 of the Act were filed then the learned Additional District Judge, Ludhiana set aside the aforesaid



award only on one ground that the learned Arbitrator had misconducted himself and acted with impropriety, whereas it was the case of the learned counsel for the appellants that the aforesaid exercise of power by the learned Arbitrator was under Section 39 of the Act and therefore, that itself cannot become a ground for observing that the learned Arbitrator had misconducted himself and acted with impropriety. Be that as it may, this Court is of the considered view that the arbitral award dated 25.09.2004 could not have been set aside only on the aforesaid sole ground.

6. Consequently, the present appeal is allowed. The impugned judgment dated 25.05.2023 passed by the learned Additional District Judge, Ludhiana, is hereby set aside. The matter is remanded back to the learned Additional District Judge, Ludhiana to reconsider the objections filed by respondent No.1-Corporation under Section 34 of the Act and pass a fresh order strictly in accordance with law, preferably within a period of four months from today.

(JASGURPREET SINGH PURI)
JUDGE

15.09.2025
Chetan Thakur

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