

Kulvir Singh Vs. M/s Daimler Financial Service

Present: Shri Amit Mittal, Advocate proxy counsel for objector.
Shri Ashu Mittal Advocate for respondent No.1.
Shri Charanjit Sidana, Advocate for respondent No.3.

ORDER

At this outset, a question arises as to whether the Court at Faridkot got territorial jurisdiction to decide the present objection petition as filed under Section 34 of the Arbitration & Conciliation Act, 1996 to set aside an arbitral award dated 06.12.2019 rendered by Shri Vikas Kumar Gupta, Advocate, Chamber No.329, District Court Complex, SAS Nagar, Mohali.

In a recent decision, *BGS SGS SOMA JV v. NHPS Limited*¹, Hon'ble Supreme Court laid down law on this aspect while holding that:

Section 42 is meant to avoid conflicts in jurisdiction of Courts by placing the supervisory jurisdiction over all arbitral proceedings in connection with the arbitration in one Court exclusively. This is why the Section begins with a non-obstante clause, and then goes on to state "...where with respect to an arbitration agreement any application under this Part has been made in a Court..." It is obvious that the application made under this part to a Court must be a Court which has jurisdiction to decide such application. The subsequent holdings of this Court, that where a seat is designated in an agreement, the Courts of the seat alone have jurisdiction, would require that all applications under Part I be made only in the Court where the seat is located, and that Court alone then has jurisdiction over the arbitral proceedings and all subsequent applications arising out of the arbitral agreement.

While applying such *ratio decidendi* to the facts of present case, the only conclusion can be drawn that both parties have chosen SAS Nagar, Mohali as the "seat" of the arbitration under Section 20 (1) of Act 1996 and the Courts at SAS Nagar, Mohali would have exclusive jurisdiction over the arbitral proceedings, whereas the Court at Faridkot lacks territorial jurisdiction to entertain and try the present petition.

Hence, the present objection petition is ordered to be returned to the petitioner with a liberty to file the petition before a competent Court at SAS Nagar, Mohali within 30 days from today. Necessary endorsement be made on the original petition before return and a copy thereof be retained on the file.

Record of this court be consigned after due compliance.

Rajiv Kalra (PB0098)
Additional District Judge,
Faridkot

Dated: 08.11.2021
Parul Kumar

¹ MANU/SC/1715/2019