

**CNR No. PBGD01-012101-2020**

**CIS No. ARB-29-2020**

The Pb. State Coop. Supply &Marketing Federation Ltd. Vs. M/s Saini Trading Co.

Present: Sh. Pankaj Tiwari Advocate, for the petitioner.

**ORDER**

Heard on the petition under section 9 of the Arbitration and Conciliation Act seeking relief claimed in the petition before this Court at this stage.

After going through the petition and documents attached with the file it has been found that admittedly, arbitration agreement dated 13.10.2009 was executed between the parties and award in this case has already been passed by Sh. R.N.Singhal, District & Sessions Judge (Retd), Sole Arbitrator Chandigarh on dated 28.01.2019 in favour of the petitioner/applicant. Now in this application under section 9 of the Arbitration and Conciliation Act, applicant is seeking restraining the respondent no.1 from alienating or creating any third party charge over the disputed property till the execution of the award. There is no doubt that the petition under section 9 of the Arbitration and Conciliation Act after passing of the arbitral award is maintainable one, but the court has to see that whether the applicant/ petitioner is entitled to the relief claimed under section 9 of the Arbitration and conciliation Act. The Arbitration Act has been amended w.e.f. 23.10.2015 and thereafter, the award has been passed regarding the dispute between the parties on dated 28.01.2019 by the Sole Arbitrator. Section 9 (3) of the Arbitration and Conciliation Act provides that once the Arbitral Tribunal has been constituted, the court shall not entertain application under sub section

(1) unless the court finds circumstances exist which may not render the remedy provided under section 17 efficaciously. Further section 17(1) provides that a party may during the arbitral proceedings apply to the Arbitral Tribunal for the relief as mentioned in Section 9 of the Arbitration and Conciliation Act and the Arbitral Tribunal shall have the same power for making orders as the court has passed for the purpose and in relation to any property before it.

Hence, in view of the above provisions of the law the court under section 9 is only formulating interim measures so as to protect right under adjudication before the Arbitral Tribunal from being frustrated.

After considering over all facts and circumstances of the petition and relief claimed by petitioner/applicant this court is satisfied that there is no circumstance exist at this stage, which may render the remedy to the applicant provided under section 9 and under section 17 efficaciously. If it is so, then applicant/ petitioner is not entitled to seek any relief. Accordingly, petition is ordered to be dismissed. However, it has been observed that at this stage the appropriate remedy for the petitioner/applicant is to file the execution petition under section 36 of the Arbitration and Conciliation Act. With these observations the petition is disposed off. File be consigned to the record room.

Pronounced:  
Dated: 13.12.2021.  
Shiv Kumar Stenographer-1

(Amar Paul),  
Addl. District Judge,  
Gurdaspur. UID No.PB0450.