

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4015 OF 2010  
(Arising out of SLP (Civil) No.13650/2009)

DABUR INDIA LTD.

Appellant

VERSUS

BHATINDA CHEMICALS LTD & ORS.

Respondents

O R D E R

Leave granted. Heard learned counsel.

2. The appellant filed an application under Section 34 of the Arbitration & conciliation Act, 1996 ('Act' for short) challenging the award made by the Arbitrator. In the said proceedings the appellant filed an application dated 30.3.2007 praying that the record of the arbitration proceedings be summoned and matter be decided on the basis of the pleadings/documents on record. The trial Court by its order dated 29.8.2007 held that there is need for recording the evidence and therefore the prayer of the appellant for dispensing with the recording of evidence was liable to be rejected. The Court observed that the application, to the extent it calls for the record of the arbitration proceedings stands allowed as the record has already been produced before the court.

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3. Feeling aggrieved, the appellant filed a revision petition before the High Court. The High Court dismissed the said revision petition by the impugned order. The High court held that having regard to the rules applicable in the State of Punjab & Haryana and Union Territory of Chandigarh, evidence has to be led on all applications. The said order is challenged in this appeal by special leave.

4. The examination of the Punjab & Haryana and Union Territory of Chandigarh, Arbitration & Conciliation Rules, 2003 makes it clear that there is no requirement that evidence should be recorded in applications under Section 34 of the Act. In fact, this issue came up before this Court in Fiza Developers & Inter-Trade P.Ltd. vs. AMCI(I) Pvt.Ltd. & Anr. reported in 2009 (11) SCALE 371 wherein this Court held that "an application under Section 34 of the Act is a single issue proceeding, where the very fact that the application has been instituted under that particular provision declares the issue involved. Any further exercise to frame issues will only delay the proceedings and therefore the issues need not be framed under Section 34 of the Act". This Court also observed that the court seized of the matter may, of course, vary the procedure depending upon the facts of the particular case or the local rules. In view of the above, we are of the view that the assumption on which the civil court and the High Court have proceeded appears to be erroneous. The position is that in proceedings under Section 34 of the Act, normally framing of issues and recording of evidence is not necessary. It is only in exceptional cases where the facts and circumstances so warrant, the court may frame issues or record evidence.

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5. In this case, the trial court and the High Court have proceeded on the assumption that the framing of issues and recording of evidence are mandatory. This is erroneous and therefore the orders of the trial court and the High Court cannot be sustained. We accordingly, allow this appeal and set aside the order of the trial court and the High Court. As a consequence the trial court may now consider the question as to the need for recording



in Fiza Developers (supra) and decide the application  
in accordance with law.

(O.P. Sharma)  
Court Master

(M.S. Negi)  
Court Master

(Signed order is placed on the file)