(1970) 09 P&H CK 0002

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 365 of 1970

Ram Sarup Jain		APPELLANT
	Vs	
Ram Chander and others		RESPONDENT

Date of Decision: Sept. 11, 1970

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 115

Citation: (1970) 09 P&H CK 0002

Hon'ble Judges: P.C. Pandit, J

Bench: Single Bench

Advocate: Hans Raj Aggarwal, for the Appellant; S.C. Kapur, for the Respondent

Final Decision: Dismissed

Judgement

P.C. Pandit, J.

Ram Sarup filed a suit against Ram Chander and others and during the pendency of the same the dispute was referred to four arbitrators, on an application made for that purpose by the parties. The arbitrators entered upon the reference and later filed the award in Court. The Defendants put in objections against the said award. The allegations made by the Defendants were denied by the Plaintiffs and thereupon an issue was struck in the case as to whether there were sufficient grounds for setting aside the award. Vide order dated 28th March, 1970, the Subordinate Judge, Ist Class, Sonepat who was dealing with the case, set aside the award and also superseded the reference. Against that decision, the present revision petition has been filed u/s 115 of the CPC by the Plaintiff.

2. A preliminary objection has been raised by the learned Counsel for the Defendants to the effect that this revision petition should be rejected on the ground that the order setting aside the award was appealable u/s 39 of the Arbitration Act and the Plaintiff should have filed an appeal against the same before the competent Court and not challenged it by way of a revision petition in this Court.

3. After hearing the counsel for the parties, I am of the view that there is merit in this objection. The order setting aside an award is, undoubtedly, appelable u/s 39(1) (vi) of the Arbitration Act. It is undisputed that where an alternative remedy is available to a person, this Court will not ordinarily interfere on the revision side. Where the applicant could have appealed against the decision complained and had not done so, a revision should not be entertained.

4. In the present case, I see no special reason to make a departure from the general rule mentioned above. The revision petition, consequently, fails and dismissed, but with no order as to costs.