



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

109

SAO-50-2013 (O&M)
Date of decision: 25.04.2025

M/S SHREE NAROTAM PURI ENTERPRISES

..Appellant

Versus

PUNJAB AGRO INDUSTRIES CORPORATION LTD & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Karan Gupta, Advocate
for the appellant.

Mr. Anupam Singla, Advocate
for respondent No.1 to 4.

ANIL KSHETARPAL, J(Oral)

1. The plaintiff assails the correctness of First Appellate Court's order directing the trial Court to return the plaint to the plaintiff and directing the plaintiff to go before the arbitrator. The plaintiff filed civil suit for recovery of Rs.11,03,430/- and for grant of mandatory injunction directing the respondents to regularly pay monthly rent, which was decreed by the trial Court. The defendant filed first appeal, which has been allowed on the following two grounds:-

- i. The territorial jurisdiction of the Court at Khanna is debatable.
- ii. Under Clause 11, the parties were required to get their dispute resolved through arbitration.

2. Learned counsel for the appellant contends that no application was filed by the defendant under Section 8 of the Arbitration and



Conciliation Act, 1996 (in short '1996 Act') and the Court has not recorded any finding that the defendant suffered any prejudice on account of lack of territorial jurisdiction, which is *sine qua non* before a judgment of the Court is set aside only on the ground of lack of territorial jurisdiction.

3. Per contra, learned counsel for respondents submits that there is an arbitration clause and even if no application under Section 8 of the '1996 Act' was filed, still the plaintiff was required to file claim petition before the arbitrator/arbitral Tribunal.

4. He further submits that the objection with regard to lack of territorial jurisdiction and presence of arbitration clause was taken in the written statement.

5. This Court has considered the submissions of learned counsel for the parties.

6. The resolution of dispute before the arbitrator/arbitral tribunal is an alternative dispute resolution. The '1996 Act' enables the party to object to the maintainability of the suit by filing application under Section 8 of the '1996 Act'.

7. In this case, no application was filed under Section 8 of the '1996 Act', hence, the defendant lost his chance. The failure to file application amounts to waiver in terms of Section 4 of the '1996 Act'.

8. With respect to scope of interference on territorial jurisdiction, Section 21(1) of the Code of Civil Procedure, 1908, provide that unless there has been consequent failure of justice, the Appellate or Revisional Court shall not interfere with objection raised in regard to territorial jurisdiction.

9. Keeping in view the aforesaid discussion, the impugned order passed by the First Appellate Court is set aside while restoring the appeal to



its original number, which shall be decided by the First Appellate Court in accordance with law.

10. The parties through their counsel are directed to appear before the First Appellate Court on 23.05.2025.

11. Disposed of.

12. All the pending miscellaneous applications, if any, are also disposed of.

April 25th, 2025

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**(ANIL KSHETARPAL)
JUDGE**

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