

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDI GARH

ARB-190-2015 (O&M)  
Date of decision: - 16.09.2016

Suri nder Bansal  
... Peti ti oner

Versus  
Mohi t Aggarwal and others  
... Respondents

ARB-191-2015 (O&M)

Promi l a Si ngl a  
... Peti ti oner

Versus  
Mohi t Aggarwal and others  
... Respondents

CR-2443-2016 (O&M)

Ashok Kumar and another  
... Peti ti oners

Versus  
Anj u Garg and others  
... Respondents

CORAM: HON' BLE MR. JUSTI CE S. J. VAZI FDAR, CHI EF JUSTI CE

Present: - Mr. Raj bi r Wasu, Advocate,  
for the peti ti oner in ARB-190-2015,  
for respondent No. 2 in ARB-191-2015,  
and for respondent No. 3 in CR-2443-2016.

Mr. Puneet Jindal , Seni or Advocate,  
with Ms. Sakshi , Advocate,  
for the peti ti oner in ARB-191-2015,  
for the peti ti oners in CR-2443-2016,  
and for respondent No. 2 in ARB-190-2015.

Mr. Ni rbhay Garg, Advocate,  
for respondent No. 1 in ARB-190-2015,  
for respondent No. 1 in ARB-191-2015,  
and for respondent No. 2 in CR-2443-2016.

Mr. Shi v Kumar Sharma, Advocate,  
for respondent No. 3 in ARB-190-2015,  
and for respondent No. 1 in CR-2443-2016.

\* \* \* \* \*

S. J. VAZI FDAR, C. J. (ORAL)

In ARB-190-2015, the petitioner relies upon a partnership deed dated 20.01.2012 clause 14 thereof contains an arbitration agreement. The petitioner's claim therein is that the partnership deed, though admitted, was never acted upon. The respondents have no objection to an arbitrator being appointed in ARB-190-2015 and rightly so for whether the partnership deed was acted upon or not is also a dispute which falls within the ambit of the arbitration agreement.

2. In ARB-191-2015, the petitioner has relied upon another partnership agreement dated 09.04.2012. The petitioner contends that this arbitration agreement was executed on 09.04.2012, but was only stated to be executed on 20.01.2012. There is a dispute regarding the validity and genuineness of this arbitration agreement. It is necessary to note that the respondents in this petition had filed a civil suit before the Learned Civil Judge (Junior Division), Dera Bassi. In that suit, the petitioners herein filed an application under Section 8 of the Arbitration and Conciliation Act, 1996. That application was dismissed by the Learned Civil Judge (Junior Division), Dera Bassi. The petitioners filed Civil Revision Nos. 7030-2015 and 7259-2015 against the impugned order. The Learned Single Judge of this Court by an order and judgement dated 21.12.2015, inter alia, noted the contention on behalf of the petitioners and observed that the disputed questions between the parties ought to be re-adjudicated by the trial Court. The parties were granted liberty to bring on record the subsequent documents viz-a-viz information obtained under the Right to Information Act, 2005, the complaint made to the police etc. in connection with the application under Section 8.

3. The respondents in ARB-191-2015, as I observed earlier, denied the genuineness of the partnership agreement dated 09.04.2012, but only stated to be executed on 20.01.2012, which I will refer to as the alleged substituted agreement. The respondents in fact filed the suit contending that the agreement is not genuine and for a cancellation thereof. It would, therefore, be necessary for the parties to lead evidence to establish the arbitration agreement. For that, they must establish the validity of the alleged substituted partnership agreement. It is difficult without evidence to adjudicate this issue. The trial Court has unfortunately not done so despite the remand order dated 21.12.2015 probably because the parties have not lead sufficient evidence in this regard.

In these circumstances, CR-2443-2016 is disposed of by setting aside the impugned order and remanding the matter to the trial Court for a fresh decision after granting the parties an opportunity of leading the evidence/further evidence.

The result in ARB-191-2015 would have to await the decision of the trial Court in respect of the petitioners' application(s) under Section 8.

4. In these circumstances: -

(i) ARB-190-2015 is disposed of by appointing Mr. Justice Paramjeet Singh Dhaliwal, a former Judge of this Court, as the sole arbitrator.

By consent the venue shall be the Chandigarh Arbitration Centre.

(ii) CR-2443-2016 is disposed of by setting aside the impugned order and by granting the parties an opportunity to lead evidence/further evidence.

The trial Court shall pass a fresh order on the petitioners' application under Section 8 in the respondents' suit.

(iii) ARB-191-2015 is adjourned sine-die. Liberty to mention after the decision of the trial Court on the Section 8 application.

5. Mr. Jindal, learned senior counsel has made a statement that he is willing to have all the disputes and differences including as to the genuineness and validity of the alleged substituted arbitration agreement referred to arbitration. In the event of the respondents agreeing to all the disputes and differences being referred to arbitration, they are at liberty to make an application in these arbitration petitions itself for the same.

6. A photocopy of the order be placed in the connected files.

(S. J. VAZIFDAR)  
CHIEF JUSTICE

16.09.2016

Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No