

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Arbitration Case No.115 of 2014 (O&M)
DATE OF DECISION: 08.05.2015

Mohinder Singh and others

....Petitioners

versus

Gurdarshan Singh, etc.

.....Respondents

CORAM:- HON'BLE MR.JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE

Present: Mr. Rakesh Bakshi, Advocate for the petitioner

Mr. S.S. Dinarpur, Advocate for the respondents

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S.J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral):

This is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996.

2. The parties carried on business as partners in the firm name and style of M/s Mohinder Singh Gurdarshan Singh & Company. The partnership deed contains an arbitration agreement. The respondents, however, contend that the disputes and differences between the parties had been referred to arbitration pursuant to which the Arbitrator had made an award dated 29.07.2007. The respondents' case is that as the applicants failed to honour the award, they filed execution proceedings. The applicants' objections thereto were dismissed by the learned Additional District Judge. By an order and judgment dated 03.09.2012, the civil revision filed by the applicants was also dismissed. The application for review against that order has also been dismissed. The dismissal was essentially on the ground that the award has not been challenged.

3. The applicants thereafter filed an application under Section 34 of the Act challenging the award which was dismissed by an order and judgment dated 03.01.2014 essentially on the ground that it was barred by limitation. A first appeal is pending in this Court against that order. The alleged award is as under:-

"We (i) Ramdhan, Commission Agent, Shop No.94, (ii) Anil Kumar, Commission Agent Shop No.9 on 20.05.2007 were appointed for division of accounts between the four partners of M/s Mohinder Singh Gurdarshan Singh & Co. Sh. Anil Kumar of Shop No.9 had been appointed on behalf of Partners Mohinder Singh & Balbir Singh of M/s Mohinder Singh Gurdarshan Singh & Co. and Ramdhan of Shop No.94 had been appointed on behalf of Gurdarshan Singh of M/s Mohinder Singh Gurdarshan Singh & Co. After inspecting the accounts books of the firm, we have come to the conclusion that Rs.19,21,000/- (Rs.Nineteen Lacs twenty one thousand only) is due from the Firm to Gurdarshan Singh. The bad debts qua which court cases are pending, in case any recoveries affected from them, then Gurdarshan Singh will have a right on 1/3rd of the amount recovered."

4. I do not wish to express any opinion on the validity or even the effect of the award. However, in view of the aforesaid proceedings, I am not inclined to appoint an Arbitrator at least at this stage. It will be open to the applicants to file a fresh application after the aforesaid proceedings attain finality. Needless to add that I have not expressed any views on the merits of the contentions.

08.05.2015
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(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE