

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No.2078 of 2012 (O&M)

Date of decision: 27.08.2015

& Civil Revision No.2079 of 2012 (O&M)

Puniabi University, Patiala and another Petitioners

versus

Deepak Kumar Jindal Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Gurpreet Singh Dhillon, Advocate,
for Mr. Gursimran Singh, Advocate,
for the petitioners.

Mr. Rakesh Gupta, Advocate,
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

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K.Kannan, J. (Oral)

1. Both the revision petitions are connected and they are disposed of by a common order.
2. In a claim before a civil court, the defendant applied under Section 8 of the Arbitration and Conciliation Act for a reference to arbitration. The defendant was referring to an arbitral clause which was made one of the conditions of the contract appended along with the tender form which was presented by the

contractor for making the initial offer to do the work. The tender conditions themselves had not been signed in each page according to the defendant and the contractor had signed only the first page in the General Rules and Directions for the Guidance of the Contractors.

3. The contention by the plaintiff was that there was no arbitral agreement at all. The court accepted the contention and the revisions are by the defendant against the order. At a previous hearing, I had directed the original contract which had been signed by the party. The counsel produces the file which shows that the plaintiff has signed in a printed form that reads as:-

**“PUNJABI UNIVERSITY
UNIVERSITY CONSTRUCTION DIVISION
PATIALA
ITEM RATE TENDER
AND
CONTRACT FOR WORKS
GENERAL RULES AND DIRECTIONS FOR THE GUIDANCE OF
CONTRACTORS”**

The contractor has signed at the first page of the general rules and conditions. According to the defendant, the document appends the tender for works and the terms & conditions of the contract. Even in the notice inviting the contract agreement stipulates the following documents to be part of the agreement:-(i) notice inviting tender; (ii) tender submitted by the contractor; (iii) contractor's acceptance letter No.Nil, dated 12.05.2005 and (iv) letter of allotment No.919, dated 05.05.2005. I have seen from the original file and I find that the terms of the contract have not been signed in each page. I do not think prima facie that it is of any consequence because the contract

agreement makes reference to the documents which include the notice inviting tender. If, in the compilation of papers in the notice inviting tender, there are contractual terms mentioned, I would take it that all the terms must be taken as duly incorporated in the contract agreement itself signed by the plaintiff on 23.09.2005. To plead that since he has not signed the tender conditions at each page and he will not be bound is not fair in making such an assessment. I discard the objections taken by the respondent and hold that the contract does contain an arbitral clause and if it were still urged that the clause had been incorporated without his knowledge, he is at liberty to take such an objection before the Arbitrator in the manner contemplated under Section 16 of the Arbitration and Conciliation Act of 1996.

4. The impugned order is set aside and the revision petitions are allowed. I direct that the matter is referred to arbitration in the manner contemplated in the contract and the parties will have the adjudication done only before the Arbitrator subject to any decision that the Arbitrator may take under Section 16.

(K.KANNAN)
JUDGE

27.08.2015
sanjeev