

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

Civil Revision No.228 of 2012 (O&M)
Date of Decision: September 23, 2015

M/s Chopra Land Developers Pvt.Ltd., New Delhi

...Petitioner

Versus

Jatinder Nath & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Akshay Bhan, Senior Advocate with
Mr.Aman Bansal, Advocate,
for the petitioner.

Mr.P.S.Rana, Advocate &
Mr.Aalok Jagga, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

The challenge in the present revision petition is to the impugned order dated 27.5.2010 (Annexure P-6), whereby the application filed by the petitioner to make the *ex-parte* award dated 29.3.1994 as rule of Court has been dismissed and the orders dated 4.8.2011 and 19.11.2011 (Annexures P-7 & P-8), whereby the appeal and as well as the review have been dismissed.

Mr.Akshay Bhan, learned Senior Counsel assisted by Mr.Aman Bansal Advocate, appearing on behalf of the petitioner submits that an

agreement dated 16.3.1990 was entered into between the parties to the lis and since certain disputes arose, the matter, as per Clause-11 of the agreement, was referred to the arbitrator. With the consent of the parties, one Shri Damodar Sharma was appointed as arbitrator.

During the pendency of the arbitration proceedings, respondent No.1 challenged the arbitration proceedings by filing a petition in the Delhi High Court and did not appear before the arbitrator resulting into passing of the *ex-parte* award dated 29.3.1994. The said award was sought to be made as rule of Court before the trial Court in view of the prevailing provisions of the Arbitration Act, 1940. The said application was dismissed vide impugned order dated 27.5.2010 (Annexure P-6). The appeal filed against the same has also been dismissed and the review also met with the same fate. He further submits that the Courts below have committed an illegality and perversity in arriving at a finding that in view of the supersession of the agreement, the arbitration clause no longer survives.

During the course of the hearing of the aforementioned revision petition, Mr.P.S.Rana, learned counsel appearing on behalf of respondent No.1, submits that after the passing of the order dated 4.8.2011 and dismissal of the review on 19.11.2011, respondent No.1 has filed a civil suit for possession and cancellation of the agreement dated 16.3.1990 and the petitioner herein filed a petition under Section 8 of the Arbitration and Conciliation Act, 1996 (for short "1996 Act").

The present revision petition was filed on 11.1.2012.

Without pondering upon the merits and de-merits of the case and keeping in view the fact that the parties are litigating before the Delhi

High Court and an application under Section 8 of 1996 Act was filed, I deem it appropriate to dispose of the present revision by granting liberty to the petitioner to raise all the pleas in the application which has already been filed under Section 8 of 1996 Act.

It is made clear that the findings rendered by both the Courts below would not come in their way seeking reference to the arbitrator in view of the terms and conditions of the agreement.

Revision stands disposed of.

September 23, 2015
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(AMIT RAWAL)
JUDGE