

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

Civil Revision No.2965 of 2011 (O&M)

Date of decision: 27.07.2015

Shri Ram Transport Finance Company Limited and another.
... Petitioners

versus

Gopal Krishan
.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Manish Soni, Advocate,
for the petitioners.

Mr. P.K. Vohra, Advocate,
for the respondent.

K.Kannan, J. (*Oral*)

1. The order passed dismissing the application under Section 8 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is wholly untenable for the simple reason that the arbitral agreement itself is an admitted fact. The financier has sought to enforce loan advance by seizing the vehicle and the attempt to sell the vehicle seized. The suit is for injunction complaining of the act of the financier as wholly unjustified and untenable. This is an obvious follow-up of a dispute and the plaintiff will have no right to approach the civil court without pressing for an adjudication regarding the dispute which he is raising before the Arbitrator. The

application filed under Section 8 ought to have been allowed and the court ought to have directed the parties to seek the reference to Arbitrator in the manner contemplated under the agreement.

2. The impugned order is set aside and the application filed under Section 8 of the Act by the petitioner is allowed and the petitioners will resort to an action before the Arbitrator in the manner contemplated under the agreement. The petitioners shall make reference to arbitration and the Arbitrator will enter reference and proceed with the respective claims in accordance with law. Steps for appointment shall be done within a period of 8 weeks from the date of receipt of copy of this order.

3. Civil revision stands allowed on the above terms.

(K.KANNAN)
JUDGE

27.07.2015
sanjeev