

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 3234 of 2013
Date of Decision : March 12th, 2015

M/s Vipul Facility Management Pvt. Limited and another

.... Petitioners

Versus

Ramandeep Jindal and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON

Present Mr. Sanjay Vij, Advocate,
 for the petitioners.

 Mr. Sham Lal Bhalla, Advocate
 for respondent No.1.

Dr. BHARAT BHUSHAN PARSOON, J.

Dismissal of application of defendant No.2, petitioner herein, under Section 8 of the Arbitration and Conciliation Act, 1996 [for short, “the Act”] for referring the matter to the Arbitrator in terms of agreement dated 17.12.2007 having arbitration clause, vide impugned order dated 4.4.2013 [Annexure P/1], forms genesis of this revision petition.

Respondent No. 1 – plaintiff, Ramandeep Jindal had filed a suit taking various pleas stating harassment and various difficulties being faced by him at the hands of the defendants. In fact, the plaintiff had purchased property from the defendants and at that time, Maintenance Service Agreement [hereinafter referred to as “the agreement”] was allegedly executed between the parties on 17.12.2007, validity and legality of which has not been questioned by the plaintiff.

In the impugned order, lower Court had reached a conclusion that the suit was having multiple issues needing adjudication and only few of those were referable to the Arbitrator even if arbitration agreement dated 17.12.2007 is taken to be valid and legal.

Relying on **Sukanya Holdings [P] Ltd. Vs. Jayesh H. Pandya & another 2003 [5] SCC 531**, lower Court had come to a definite finding that since all the matters under adjudication before it were not arbitrable and it being a case of mixed rival claims, some of which are arbitrable and some are not, the segregation being not feasible, the Civil Court has the jurisdiction to continue with the suit.

By way of the present petition, it is claimed by the petitioners that the issues racked up by the respondent-plaintiff in the suit other than those which have been considered to be referable to the Arbitrator, are neither even arising between the parties nor are even adjudicateable by the Civil Court. It is, thus, urged that when relief sought by the respondent-plaintiff, other than mentioned at [a], [b], [c], [h] and [i] are held to be not adjudicateable by the Civil Court and are then scored out, the matter in dispute becomes arbitrable and is liable to be sent to the Arbitrator.

Counsel for respondent no.1/plaintiff on the other hand has urged that relief other than mentioned at [a], [b], [c], [h] and [i] are of civil nature and in terms of Section 9 of the Act, are to be decided by the Civil Court only. It is urged that the application moved by the defendant-petitioners herein, is *mala fide* and is merely a measure to traumatize the residents and to use the agreement of 17.12.2007 as a measure of arm-twisting, whereas the defendants are acting as shylock and want every pound of flesh of the residents including that of the plaintiff-respondent No.1 herein. Validity and legality of the impugned order has been asserted.

During the course of arguments being addressed by counsel for the parties, when perusal of the paper-book had been made, it transpires that move of the petitioners-defendants is neither legally tenable nor is *bonafide* one. Perusal of copy of plaint [Annexure P/2] with particular reference to its relief clause, does not leave any manner of doubt that out of the various reliefs sought by the plaintiff, only few, as have been mentioned in the impugned order, are referable to the Arbitrator and others are not so referable. When other reliefs have neither been given up by the plaintiff nor have been sought to be struck off by the defendants, petitioners herein, as being not adjudicateable by the Civil Court, controversy whether Civil Court has jurisdiction to entertain the said pleas for adjudication, does not arise for rendering a decision.

When it is manifest that multiple reliefs have been sought by the respondent – plaintiff by invoking the jurisdiction of the Civil Court and when only few of those reliefs are referable to the Arbitrator in terms of the agreement dated 17.12.2007, the lower Court relying upon **Sukanya Holdings' [supra]** was right in upholding the plea of the respondent-plaintiff of adjudication of the entire claim from the Civil Court and in rejecting the prayer of the petitioners-defendants under Section 8 of the Act for referring the matter to the Arbitrator. It is by now clear that the application of the petitioners-defendants is a very subtle device to delay and dilate the matter and to use the agreement to dwarf and subdue the residents including the respondent-plaintiff and to continue their hegemony without providing corresponding benefits for which they are alleged to be contractually bound.

No merit. Dismissed.

Since the matter has already been delayed considerably, the same would be decided within a period of six months from the date of

receipt of a copy of this order.

(Dr. BHARAT BHUSHAN PARSOON)
JUDGE

March 12th, 2015
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1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?