

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

CR No.7785 of 2015 (O&M)

Date of decision:02.12. 2015

M/s Villa Pearls and others

-Petitioners

Versus

Rakesh Kumar Gupta

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rajesh Punj, Advocate
for the petitioners.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Vide order dated 11.05.2015 passed by Additional Civil Judge (Senior Division), Chandigarh, application filed by the defendant under Section 8 of Arbitration and Reconciliation Act, 1996 was dismissed on the ground that the memorandum placed on record by the defendant does not show that the said memorandum has been pleaded by the plaintiff to be between the parties giving rise to the present cause of action. The said memorandum is between Villa Pearls Infrastructure which is a company registered under Indian Companies Act, 1956 and the plaintiff, while the present suit has been filed against Villa Pearls i.e. partnership firm-defendants No.2 to 4. Arbitration Clause of

the aforesaid agreement does not bar the filing of the present suit. With this observation, the application filed by defendants under Section 8 of the Arbitration and Reconciliation Act, 1996 was rejected by the trial Court.

[2]. At the time of motion hearing in the present revision petition on 20.11.2015, learned counsel stressed that Villa Pearls Infrastructure is not a company registered under Indian Companies Act, 1956. This Court asked the petitioner to file memorandum of understanding/nomanclature of Villa Pearls Infrastructure on record. In compliance to aforesaid, the petitioner has placed on record Partnership Deed Annexure P7 and Memorandum of Association Annexure P8. Admittedly, M/s Villa Pearls Infrastructure is a company registered under Indian Companies, Act 1956 and not a partnership firm as suggested by the learned counsel for the petitioner on 20.11.2015.

[3]. At this stage, learned counsel for the petitioner contends that even though Villa Pearls Infrastructure Limited is a company registered under Indian Companies Act, 1956 but as per para 8 of the memorandum of understanding, the first party i.e. Vineet Handa son of Varinder Handa Director Villa Pearls Infrastructure is a sleeping partner in Villa Pearls which is having connection with the International Companies all across the globe. Party No.1 has to hire Villa Pearls as sourcing company

on commission basis, where Villa Pearls has to get the material from different companies on cost plus commission basis and billing will be directly in the name of Harsoria VPI and a company to be incorporated by First and Second party.

[4]. Having considered the controversy, this Court finds that no indulgence can be given to the petitioner who has not come to the Court with clean hands. Consequently, this revision petition is dismissed.

(RAJ MOHAN SINGH)
JUDGE

December 02, 2015
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