

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.427 of 2001 (O&M)

Date of decision:24.09.2016

Haryana State Industrial Development Corporation
Ltd.

... Petitioner

Vs.

Industries Welfare Association and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Aman Chaudhary, Advocate
for the petitioner.

Mr. Alok Jain, Advocate
for the respondents.

AMIT RAWAL J. (Oral)

The petitioner – HSIDCL is aggrieved of the impugned order dated 08.03.1999, whereby, the application moved on behalf of defendant no.1 under Section 8 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “1996 Act”) for referring the matter to the Arbitrator in view of the letter containing arbitration clause, has been dismissed.

Mr. Aman Chaudhary, learned counsel appearing on behalf of the petitioner submits that the respondents are an association, who had been allotted industrial plot on certain terms and conditions of the agreement and one of the clause envisages that as and when any dispute arises, allottees shall be bound by the arbitration clause. He further submits that application

was filed but the Court dismissed the same on the premise that the petitioner-defendant in the trial Court participated in the proceedings by taking two dates which would not tantamount to participation, therefore, the impugned order is not sustainable in the eyes of law. Even copy of the allotment letter was filed and the factum of allotment was not denied, therefore, the remedy of arbitration was meaningless.

Per contra, Mr. Alok Jain, learned counsel appearing on behalf of the respondents submits that the allotment of the plot has been taken place in the year 1994, whereas, alleged enhancement is of the year 1992, therefore, claim was without jurisdiction. It is a settled law that where the impugned action is without jurisdiction, remedy of the Civil Court under Section 9 CPC can be obtained *dehor* of the alternative remedy.

I have heard learned counsel for the parties and appraised the paper book and of the view that this revision petition is of 2001, whereas, the suit has been filed in the year 1997. It is too late in a day to refer the parties to the Arbitration at this stage. It is a matter of record that few of the members of the Association have settled the matter with HSIDCL.

Be that as it may, without pondering upon the merits of the matter, I am of the view that let the trial of the suit be initiated by giving opportunity to the petitioner to file written statement within a period of four weeks and thereafter, replication within two weeks and thereafter, by affording 4-4 opportunities to each of the parties to lead evidence, trial Court shall endeavour the decision of the suit as expeditiously as possible preferably within a period of one year from the date of receipt of a certified

copy of this order.

Accordingly, the revision petition stands disposed of.

The original record be remitted back to the Court below for compliance of this order.

Parties through their counsel are directed to appear before the Court below on 20.10.2016.

(AMIT RAWAL)
JUDGE

September 24, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No