

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

CR No.4979 of 2015 (O&M)
Date of decision : 31.03.2016

M/s HDB Financial Services Ltd.

...Petitioner

Versus

Arun Mittal and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Chirag Wadhwa, Advocate for the petitioner.

Mr. S.K. Gupta, Advocate for respondent Nos.1 and 2.

AMIT RAWAL, J. (Oral)

The petitioner-Financial Institution is aggrieved of the dismissal of the application filed under Section 8 of the Arbitration and Conciliation Act, 1996 and proceedings initiated under Section 22(c) of the Legal Services Authority Act, 1987.

Mr. Chirag Wadhwa, learned counsel appearing on behalf of petitioner submits that respondent-loanee had invoked the jurisdiction of the Permanent Lok Adalat under the Legal Services Authority Act vis-a-vis some dispute. Accordingly, application under Section 8 of the Arbitration and Conciliation Act, 1996, was filed as the loan agreement contained the

resolution of dispute through the Arbitrator, much less, the same was declined on the premise that Permanent Lok Adalat is not the Civil Court and, therefore, application has held not to be maintainable. In support of his contention, he has relied upon Division Bench Judgment of Kerala High Court in *Ambika Kumary Vs. State of Kerala, 2011(2) KLT 673*, and prays that in para No.9 of the judgment, it has been held that since order of the Lok Adalat is executable like the Civil Court, therefore, provision of Section 8 of 1996 Act would apply. He further submits that even the dispute raised involves question of law which cannot be adjudicated by the Lok Adalat and the Lok Adalat did not have inherent jurisdiction as sum of ₹25,00,000/- as loan was disbursed to the respondents.

Mr. S.K. Gupta, learned counsel appearing on behalf of respondent Nos.1 and 2 submits that petitioner before Lok Adalat was proceeded ex parte on 23.10.2015. An application for setting aside ex parte was stated to be pending and, therefore, present revision petition is not maintainable until and unless the ex parte proceedings are not set aside. Dispute before the Permanent Lok Adalat is in respect of amount of ₹36,000/- and, therefore, it has the peculiar jurisdiction to try and adjudicate the lis and thus urges this Court for dismissal of the revision petition.

I have heard learned counsel for the parties and appraised the paper book and of the view that it is conceded position on record that petitioner had advanced the loan of ₹25,00,000/- to the respondent and respondent has to pay sum in particular time frame. Such agreement involves resolution of dispute through arbitration. In case respondent had any grievance, he should have sent notice to the Arbitrator but could not

have invoked the provision of Legal Services Authority Act, 1987 for filing application under Section 22 (c) of the Act. The seat of the Arbitrator as per the agreement is either at Bombay or Chennai and it would be very onerous on the part of loanee to appear before the Arbitrator at Chennai or Bombay in case Arbitrator of that particular area is appointed and initiate proceedings. At this stage both the parties are *ad idem* that instead of Bombay and Chennai, arbitration proceedings shall be held at Chandigarh i.e. Arbitration and Conciliation Centre, Sector-17, Chandigarh.

With the consent of the parties, I hereby appoint Ms. Navita Singh, Hon'ble Retired Judge of this Court as Arbitrator. Registry is directed to sent the intimation to Ms. Navita Singh, Hon'ble Retired Judge of this Court for taking the consent. On receipt of the consent, she shall entered into reference by calling upon the parties to adjudicate as per the provision of New Act, 2015.

Even otherwise, order of the Lok Adalat is executable like the Civil Court decree, therefore provision of Section 8 apply.

Accordingly, impugned order is hereby set aside.

Parties shall be at liberty to file their respective claim before the Arbitrator.

Petition stands disposed of.

31.03.2016

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**(AMIT RAWAL)
JUDGE**