

FAO-211-2016(O&M)

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

Date of decision : 22.04.2016

1.

FAO-211-2016(O&M)

Housing Board Haryana, Awas Bhawan, C-15, Sector 6, Panchkula.

... Appellant

Versus

M/s Gulshan Rai Jain-II and another

... Respondents

2.

FAO-212-2016(O&M)

Housing Board Haryana, Awas Bhawan, C-15, Sector 6, Panchkula.

... Appellant

Versus

M/s Gulshan Rai Jain-II and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashwani Talwar, Advocate
for the appellant.

Mr.Karan Bhardwaj, Advocate
for respondent No.1.

AMIT RAWAL, J.(ORAL)

This order will dispose of the aforementioned appeals.

The present appeals have been filed against the order dated

22.11.2015 whereby the application dated 04.11.2015 (Annexure A2) has been dismissed by invoking provisions of Section 37(2)(b) of the Arbitration and Conciliation Act, 1996 (in short 'the Act').

Mr.Karan Bhardwaj, learned counsel appearing on behalf of respondent No.1 submits that in view of the judgment rendered by Hon'ble Supreme Court of India in *State of West Bengal and others Vs. Associated Contractors, 2015 AIR (SC) 260*, the appeal as per provisions of Section 2(1)(e) of the Act would lie before the Principal Court assuming the order under challenge passed under Section 17, though disputes that the order under challenge is not passed under Section 17, therefore, the Principal Court can not even entertain the appeal.

Be that as it may, order under challenge was challenged by the appellant vide CR bearing No.8882 of 2015 and liberty was granted for withdrawal of revision and to file appeal. Therefore, the appeal would lie before the Principal Court at Panchkula and not before this Court.

Confronted with this situation, Mr. Ashwani Talwar, learned counsel appearing on behalf of the appellant seeks withdrawal of the appeal for filing of the same before the appropriate Court and till then operation of interim stay may continue for at least period of two weeks.

Mr.Karan Bhardwaj, learned counsel, on instructions from the client, submits that his clients will not press execution of arbitration proceedings till listing the matter before the Principal Court.

Accordingly, the appeals are disposed of with liberty to file

fresh appeal within period of two weeks from the preparation of certified copy of order before the Principal Court at Panchkula with application seeking condonation of delay in filing the appeal under Section 14 of the Limitation Act in case need be and the interim order in view of submission of Mr.Karan Bhardwaj, Advocate shall not be executed till listing the matter before the Principal Court. However, thereafter appellants shall be entitled to seek interim relief. The question whether order under challenge has been passed under Section 17 or not, is left open.

(AMIT RAWAL)
JUDGE

April 22, 2016.
Davinder Kumar