

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 3683 of 2015(O&M)
Date of decision : January 15, 2016

M/s Deva Swimming Institute through its Partner
..... Appellant
Versus
HUDA Gymkhana Club and another
..... Respondents

FAO No. 3777 of 2015(O&M)

M/s Deva Swimming Institute through its Partner
..... Appellant
Versus
HUDA Gymkhana Club and another
..... Respondents

FAO No. 3867 of 2015(O&M)

M/s Deva Swimming Institute through its Partner
..... Appellant
Versus
HUDA Gymkhana Club and another
..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Akshay Bhan, Senior Advocate with
Mr. Alok Mittal, Advocate and
Mr. Kshitij Sharma, Advocate
for the appellant.

Mr. Sandeep Moudgil, Advocate
for HUDA in FAO No. 3777 of 2015.

Mr. Lokesh Sinhal, Advocate
for HUDA in FAO No.3683 of 2015 and
3867 of 2015.

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

Amit Rawal, J (oral).

FAO No. 3683 of 2015(O&M)

This order of mine shall dispose of three appeals bearing FAO No. 3683, 3777 and 3867 of 2015 as common question of fact and law involve in all the appeals.

The appellants are none else but the contractors who are aggrieved against the order dated 14.5.2015 passed by the Additional District Judge, Gurgaon whereby the agreement entered into between them and the respondents had allegedly been terminated. Since the agreement contained arbitration clause, an application under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') seeking interim measure was filed and the same was dismissed on the ground that after termination of the contract the possession of the premises was taken from the contractor. However, this Court vide order dated 25.5.2015 stayed the operation of the order whereby the lease/agreement had been cancelled and granted status quo ante qua possession till the next date. This Court has been apprised that the aforementioned order was assailed by the respondents in the Hon'ble Supreme Court by three different SLPs No.21222 of 2015, 21440 of 2015 and 21495 of 2015 and vide order dated 16.11.2015 the same were withdrawn.

It has further been pointed out that it is a condition precedent that before invoking the interim measure a notice seeking appointment of the arbitrator is sine qua non within 30 days failing which a proceeding under Section 11 (6) of 1996 Act are required to be invoked. The arbitrator has been appointed and he has entered into reference, much less even called upon the parties to file their respective claims and the next date is tomorrow i.e. 16.1.2016.

FAO No. 3683 of 2015(O&M)

Since the arbitrator has already been appointed, I am of the view that the interim order granted by this Court in three different appeals shall remain in vogue till the parties to the *lis* file their respective claims. The appellants shall be at liberty to seek interim measure as envisaged under Section 17 of the Act afresh before the Arbitrator.

With the aforementioned observations the appeals stand disposed of.

(AMIT RAWAL)
JUDGE

January 15 , 2016
archana