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

FAO-7387-2015 (O&M)
Date of decision : 12.02.2016

M/s Saksham Filling Station

...Appellant

Versus

Area Sales Manager and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ranjit Saini, Advocate
for the appellant.

Mr. Ashish Kapoor, Advocate
for the respondent(s).

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)

The appellant is aggrieved of the order dated 23.09.2015, whereby the application filed under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter called 'the 1996 Act') has been dismissed.

Mr. Aashish Kapoor, Advocate has put in appearance on behalf of the respondent(s) and filed an application under Section 151 of the Code of Civil Procedure Code for vacation of stay of

order dated 31.10.2015 by taking the preliminary objections that as per the clause 17 of the Agreement, only Delhi Courts have the territorial jurisdiction. For the sake of the brevity, clause No.17 of the Agreement reads thus:-

"The parties hereby agree that the court in city of Delhi alone shall have jurisdiction to entertain any application or any award(s) made by the Sole Arbitrator or other proceedings in respect of anything arising under this Agreement."

In support of his contentions, he relies upon the judgment of Hon'ble Supreme Court of India in **M/s Swastik Gases (P) Ltd. V/s Indian Oil Corporation Ltd.**, 2014 (1) **RCR (Civil) 52**. In my view, the Principal Court at Karnal did not have jurisdiction to entertain the *lis* between the parties and the same has rightly been dismissed. The said order has been assailed in the present appeal.

On going through the aforementioned clause and the ratio decidendi culled out by the judgment of Hon'ble Supreme Court in **M/s Swastik Gases (P) Ltd.'s case** (supra), I am of the view that Karnal Court or this Court do have not the territorial jurisdiction to decide the *lis* between the parties.

Keeping in view the aforementioned facts, application filed under Section 9 of the 1996 Act is ordered to be returned to the appellant with liberty to file the same in a competent Court of law have territorial jurisdiction, as per clause 17 *ibid* within two weeks from the receipt of certified copy of the order.

Interim order granted by this Court shall be operative

only for two weeks, and thereafter the appellant shall be at liberty to seek interim order in a competent Court of law having territorial jurisdiction.

With the aforementioned observations, the the appeal stands disposed of.

12.02.2016
yogesh

(AMIT RAWAL)
JUDGE