

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5295 of 2015
Date of decision : January 25, 2016

Ram Avtar

..... Appellant

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ashok Arora, Advocate
for the appellant.

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-plaintiff is in Regular Second Appeal against concurrent finding of fact whereby the suit for rendition of account against the respondents-defendants has been dismissed on the ground that it was not maintainable as it contained arbitration clause.

Learned counsel for the appellant-plaintiff submits that application Ex.P-12 seeking appointment of the arbitrator was also moved but no effort has been made to appoint the arbitrator. The respondents had been given directions by the Superintending Engineer to make the payment but no payment was made. Therefore, the suit aforementioned was filed, thus there is illegality

and perversity in the impugned order.

I have heard learned counsel for the appellant and appraised the paper book.

Since the agreement/contract between the parties to the *lis* contained Clause 25-A , therefore, in case of dispute the matter would be resolved by the arbitrator. The remedy, if any, for the petitioner-plaintiff for redressal of his grievance is to seek appointment of the arbitrator. In case of failure of the respondents to make the payment, ought to have invoked provisions of Section 11 (6) of the Arbitration and Conciliation Act, 1996. Instead of availing the aforementioned remedy, the petitioner-plaintiff instituted a suit which has rightly been dismissed.

I do not intend to differ with the finding rendered by both the courts below holding that the suit in view of arbitration clause, was not maintainable, which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

January 25 , 2016
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