

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

CR No.2028 of 2017
Date of decision : 12.07.2017

Tata Capital Financial Services Ltd. and another

...Petitioners

Versus

Ramphal and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Vikrant Sharma, Advocate for the petitioners.

ANIL KSHETARPAL, J.

Vide this order, I shall be disposing of CR No.2028 of 2017 filed by the petitioners against the order dismissing the application under Section 8 of the Arbitration and Conciliation Act, 1996.

A suit for recovery of ₹3,62,380/- was filed by the plaintiff with the pleadings that he had stood guarantor for defendant No.1 and he had to pay a sum of ₹3,62,380/- to defendant Nos.2 and 3 as per the guarantee. Now the plaintiff wants to recover the amount paid to the defendant Nos.2 and 3 from defendant No.1. The learned Court has found that the right in favour of the plaintiff to recover the amount from defendant No.1 is not covered by the agreement containing arbitration clause.

Learned counsel for the petitioners has argued that since the original agreement of loan executed by the defendant No.1 had arbitration clause, therefore, the present suit is not maintainable. It would be significant

to note here that in the agreement dated 27.01.2012, there was arbitration clause for settlement of the disputes.

However, instant suit out of which the present revision petition has arisen is not based on that agreement. In fact that agreement is already complete once defendant Nos.2 and 3 had been paid the amount by plaintiff. Now the dispute is only between the plaintiff and defendant No.1. Although, the defendant Nos.2 and 3 have been arrayed as defendants, but reading of the plaint would show that suit for recovery is in fact directed against the defendant No.1. There is no inter se agreement between defendant Nos.1 and 2 having arbitration clause. Defendant No.1 has not filed application under Section 8 of the Arbitration and Conciliation Act, , 1996, therefore, in my considered opinion order passed by the learned trial Court is in accordance with law.

There is no reason to interfere with the order passed by the trial Court.

Accordingly, present revision petition is dismissed.

12.07.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No