

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

CR No. 5963 of 2016

Date of Decision: 06.09.2017

M/S PACCA ADTI ASSOCIATION /BILLING CUM PAYMENT
AGENCY

-PETITIONER

VS

STATE OF HARYANA & ANR

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vinod Bhardwaj, Advocate,
for the petitioner.

Mr. Ashwani Kumar Saini, D.A.G., Haryana.

RAJ MOHAN SINGH, J. (ORAL)

It appears from the record that an application under Order 7 Rule 11 CPC read with Section 8(1) of the Arbitration and Conciliation Act, 1996 was filed by the District Food and Supply Controller, Kaithal on 29.10.2015 before the Civil Judge (Junior Division), Kaithal with a prayer to refer the case to the arbitrator.

While deciding the issue vide order dated 18.08.2016, the Court has referred to Clause 15 of the Agreement and allowed the application and referred the case to Arbitrator in view of Clause 15 of the Agreement.

During the course of arguments, Mr. Dalip Kapoor, A.F.S.O, Kaithal who is present in Court submits that the matter

has not been referred to the Arbitrator. Even as per Clause 15 of the Agreement, any dispute arising out of the agreement has to be referred to the Secretary, Government of Haryana, Food and Supply Department or to such other person as the government may appoint in this behalf. The decision of the said authority shall be final and binding upon the parties.

Evidently, no such decision has been taken by the Secretary to Government of Haryana or any other person appointed by the government (if any).

It appears that the order dated 18.08.2016 has been passed in violation of Clause 15 of the Agreement. It would be just and expedient to direct the Civil Judge (Junior Division), Kaithal to re-visit the issue in strict compliance to the Clause in the agreement and the prayer made by the defendant in terms of Section 8 of the Arbitration and Conciliation Act, 1996.

Needful shall be done by the trial Judge in accordance with law without being influenced by any of the observations made hereinabove. It shall be open to the parties to put forth their view point in the context of issue involved in the case.

Disposed of.

06.09.2017
jjyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No