

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

CR No.8595 of 2016
Date of decision :14.09.2017

M/s Sakshi Enterprises

...Petitioner

Versus

UHBVNL Panchkula and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Deepak Girotra, Advocate
for the petitioner.

Ms. Chhavi Sharma, Advocate for
Mr. P.S. Chauhan, Advocate for the respondents.

ANIL KSHETARPAL, J. (Oral)

Plaintiff is in Revision Petition against the order dated 18.11.2016 passed by the trial Court. An application was filed for referring the dispute to the arbitration under the provisions of the Electricity Act. The application was filed when the case was at the stage of plaintiff evidence.

As per the provisions of Section 8 of the Arbitration and Conciliation Act, 1996 such application is maintainable only when a party applies not later than submitting his first statement on the substance of the dispute. In this case, the case was fixed for evidence when application was filed. The relevant extract of the order passed by the Court is as under:

“ Now coming to the present case. In the instant case when the present application was moved by the applicant/plaintiff, case was fixed for plaintiff's evidence. Thus, the present application is not maintainable as the mandatory requirement of moving an application by the party not later than submitting his first statement on the

substance of the dispute, has not been complied with in the present case. More so, ld. Counsel for the applicant/plaintiff has failed to bring to the notice of the court existence of any arbitration agreement or any arbitration clause contained in the contract regarding referring of the matter in dispute to the arbitration. Present application has not been accompanied by any arbitration agreement or duly certified copy thereof, which is mandatory as per provisions as envisaged under Section 8(2), as referred above. In view of the discussion made above, this court is of the considered opinion that the application moved on behalf of the applicant/plaintiff is devoid of merit and accordingly, same is hereby dismissed.”

In view of the provisions of Section 8 of the Arbitration and Conciliation Act, 1996, at this stage, the Court cannot refer the parties for arbitration as the trial Court has already recorded some part of evidence of the plaintiff.

In view thereof, I do not find any good ground to interfere with the order passed by the trial Court.

Accordingly, Revision Petition stands dismissed.

14.09.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/reasoned : Yes
Whether Reportable : No