

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

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**FAO No.3235 of 2016(O & M)
Date of Decision:21.03.2017**

R.K.Bhatia

....appellant

Versus

D.K.Bhatia and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr.Amit Parashar, Advocate
for the appellant

Mr.Kapil Khanna, Advocate
for respondents No.1 to 3

ARUN PALLI, J. (ORAL):

Vide impugned order dated 22.04.2016, the application moved by respondents No.1 to 3, under Section 9 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act'), for interim measures was accepted by the Additional District Judge, Faridabad.

Being aggrieved against the said order, Mr.R.K.Bhatia (respondent No.1 in the application), is in appeal before this Court.

On May 31, 2016, while issuing notice, this Court had passed the following order:

**Learned counsel for the appellant submits that
due to ill advise, he could not file reply in the application
under Section 9 of the Arbitration and Conciliation Act,
1996 whereby interim measure has been sought by
invoking the alleged partnership. In case, one
opportunity is granted to file reply and argue the matter
subject to payment of costs he will argue the matter and**

file reply.

**Notice of motion for 4.7.2016 subject to
payment of costs of ₹ 50,000/-.**

Dasti as well.

**In the meantime, impugned order shall remain
stayed till the next date of hearing.**

Mr.Kapil Khanna, Advocate has caused appearance on behalf of respondents No.1 to 3, though, respondents No.2 and 3 are also present in person, and are identified by their counsel. For, respondents No.4 and 5 are alleged to be proforma parties, their service is dispensed with.

Having argued the matter at some length, learned counsel for the parties have reached a consensus that let the impugned order, dated 22.04.2016, be set aside and the appellant be granted only one opportunity to file reply to the application under Section 9 of the Act and the matter be remitted to the Additional District Judge, Faridabad, for re-decision.

That being so, the impugned order dated 22.04.2016 is set aside. The appellant shall be granted one effective opportunity to file reply to the application moved by the respondents on or before the date that shall be specified by the Court, in this regard. Needless to assert that the application moved by the respondents shall be decided afresh, in accordance with law. However, in the event of default, the matter shall not be adjourned, at any cost, and the right to file reply shall stand forfeited. Parties are directed to appear before the Additional District Judge, Faridabad on 05.04.2017. It shall be the discretion of the District Judge to either decide the matter himself or assign it to a court of competent jurisdiction. The amount of ₹ 50,000/-, deposited by the appellant, with this Court, pursuant to the order

dated May 31, 2016, shall be released to respondents No.1 to 3.

The appeal is disposed of in the above terms.

March 21, 2017
neenu

(ARUN PALLI)
JUDGE

Whether speaking/reasoned

Yes/No.

Whether reportable-

Yes/No