

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

ARB-346-2018 (O&M)
Date of decision:- 16.11.2018

M/s Badhwar Automotives Pvt. Ltd.

...Applicant

Versus

M/s Chevrolet Sales India Pvt. Ltd. and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE

Present:- Mr. Sanjay Judge, Advocate,
for the applicant.

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KRISHNA MURARI, C.J. (ORAL)

This is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (in short the Act) for appointment of an arbitrator.

2. There is no dispute about the fact that the agreement between the parties contains an arbitration clause i.e. clause 16.3, but clause 16.2 of the agreement provides for settlement of dispute through negotiations. The said clause reads as under:-

*"16.2 Settlement of Dispute through
Negotiations*

*If any dispute occurs between CSIPL and
Retailer arising out of or relating to
the agreement or a breach thereof, the
parties shall first use their best
efforts to settle the dispute through
friendly negotiations. To this end, the
parties shall consult and negotiate in
good faith and with an understanding of
their mutual interest to reach a
prompt, just and equitable solution."*

3. Clause 16.3 containing the arbitration clause clearly provides that if the dispute is not resolved through negotiations pursuant to Article 16.2 within thirty days, it shall be submitted for resolution under the terms of the Act. It is an admitted case of the applicant that they have not resorted to clause 16.2 as there were no efforts on behalf of the parties to settle the dispute through friendly negotiations. In such view of the matter, the application made is premature. It is incumbent upon the applicant to invoke clause 16.2 and to invite the respondents to settle the dispute through negotiations and if that fails then only clause 16.3 for referring the dispute to arbitration can be invoked.

4. As such, the application stands dismissed as premature with liberty to the applicant to invoke clause 16.2 for settlement of the dispute through negotiations.

(KRISHNA MURARI)
CHIEF JUSTICE

16.11.2018
Anodh

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