

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

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CR No.4724 of 2017 (O & M)
Date of Decision:17.04.2018

Daimler Financial Services India Pvt. Ltd. and another ...Petitioners

Versus

Rachhpal Singh ...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vipul Dharmani, Advocate
for the petitioners.

Mr. Achin Gupta, Advocate
for the respondent.

ANIL KSHETARPAL, J.(Oral)

Defendants-petitioners are in the revision petition against the order passed by the learned trial Court dismissing the application under Section 8 of the Arbitration and Conciliation Act, 1996 (in short - “the Act of 1996”) for referring the parties to the arbitration as per arbitration clause contained in the loan agreement. Learned trial Court has dismissed the application on the ground that genuiness of the loan agreement itself is being disputed.

From the reading of the order, it is clear that the plaintiff claims that his signatures were obtained on blank printed forms and, therefore, the agreement is not valid. In other words, the signatures on the loan agreement, which contains arbitration clause are admitted. Such being the situation, the language of Section 8 of the Act of 1996 is different than the corresponding provision in the Arbitration Act, 1940.

Learned trial Court has relied upon a judgment passed by the

Section 8 of the Arbitration and Conciliation Act does not leave much discretion with the Civil Court to refuse to refer the parties to the Arbitrator once there is an agreement between the parties for resolving their disputes through Arbitration subject to fulfillment of the conditions as laid down in the Section 8 of the Act. Plaintiff-respondent is well within its right to challenge the validity of the agreement before the Arbitrator.

In view of the aforesaid, the order under challenge is set aside and the revision petition is allowed.

Parties are relegated to the remedy of Arbitration. Application filed under Section 8 of the Arbitration and Conciliation Act shall stand allowed.

17.04.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No