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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5836 of 2015 (O/M)
Date of decision : 18.5.2018

Indian Oil Corporation Ltd.

..... Petitioner

Versus

M/s Goyal Oil Store and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ashish Kapoor, Advocate,
for petitioner.

Mr. Arun Bansal, Advocate,
for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Impugned in present revision is order dated 17.7.2015, passed by learned Civil Judge (Junior Division), Moga, vide which an application under Section 8 of Arbitration and Conciliation Act, 1996, filed by defendant to refer the matter to the Arbitrator in terms of dealership agreement dated 15.5.1972, was dismissed on the ground that original agreement or duly certified copy thereof has not been produced.

I have heard learned counsels for parties and have also carefully gone through file.

It comes out that Goyal Oil Store through its partners filed a suit for permanent injunction against defendants for restraining them from taking any action as per show cause notice dated 19.4.2014 regarding termination of retail outlet dealership of plaintiff firm. Mandatory injunction was also sought.

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Defendant on appearance filed an application under Section 8 of the Arbitration and Conciliation Act, 1996, requesting for referring the matter to Arbitrator in terms of Clause 69 of agreement dated 15.5.1972. The said application has been dismissed, as discussed aforesaid.

In pursuance to directions of this Court, present petitioner Indian Oil Corporation Limited has produced original dealership agreement dated 15.5.1972, executed between Goyal Oil Store and Indian Oil Corporation Limited, in Court today. Original has been seen, returned to learned counsel for petitioner and photocopy thereof has been retained on file.

The learned counsel for petitioner has argued that photocopy of agreement duly signed under the seal of officer of Indian Oil Corporation Limited was produced with application, which is deemed to be certified copy. Trial Court has refused to refer the matter to Arbitrator on the ground that certified copy of original agreement was not produced. Original agreement has been produced before this Court and certified copy thereof has already been placed on file. Therefore, said objection stands removed. Perusal of Clause 69 of said agreement shows that matter is required to be referred to Arbitrator.

On the other hand, learned counsel for respondents, has argued that after agreement of 15.5.1972, fresh agreement was executed on account of death of some of partners of plaintiff firm.

The learned counsel for petitioner has denied the existence of any such fresh agreement. So far as any dispute regarding validity of agreement or other objections, these are to be decided by Arbitrator under Section 16 of Arbitration and Conciliation Act, 1996. The learned counsel

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for petitioner has referred to a clause in agreement, according to which, it is binding on LR's of then partners of plaintiff firm.

In view of matter, impugned order dated 17.7.2015, passed by learned Civil Judge (Junior Division), Moga, is set aside and matter is ordered to be referred to Arbitrator in terms of Clause 69 of agreement, which comes under Section 8 of Arbitration and Conciliation Act, 1996. Consequently, revision is allowed. It shall always be open to respondents to raise objection about validity on said agreement and existence of fresh agreement. Let trial Court pass appropriate order regarding status of suit in the light of order passed by this Court. Let both parties appear before trial Court on 31.5.2018 at 10:00 AM.

Since main case has been allowed, therefore, pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

18.5.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No