

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

107

CR No.6953 of 2013 (O & M)
Date of Decision:04.04.2018

Jagtar Singh

...Petitioner

Versus

Indusind Bank

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gaurav Chopra, Advocate
for the petitioner.

Mr. A.S. Virk, Advocate
for the respondent.

ANIL KSHETARPAL, J.(Oral)

Plaintiff-petitioner is in the revision petition against the order passed by the learned trial Court dated 27.04.2013 dismissing the application filed seeking amendment of the plaint.

In the present case, suit was instituted in the month of August, 2008 for mandatory injunction with a prayer that the vehicle in question, possession whereof has been taken by the defendant forcibly, should be restored to him. Defendant filed written statement on 16.08.2008. It was disclosed in the written statement that the vehicle in question has already been sold. The application for amendment was filed on 18.08.2012 i.e. after a period of 4 years particularly when issues had been framed and the plaintiff had been granted four opportunities to lead his evidence but he failed to lead evidence. It is not disputed between the parties that in the agreement there was an arbitration clause, which is extracted as under:-

*“All disputes, differences and/or claim arising out
of or touching upon this agreement whether during its*

subsistence or thereafter shall be settled by arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996, or any statutory amendments thereof and shall be referred to the sole arbitration of an arbitrator nominated by the lender. The award given by such an arbitrator shall be final and binding on the borrower and guarantor to this agreement.”

Pursuant to the aforesaid arbitration clause, an arbitrator was appointed. Arbitrator has given his award on 27.02.2009.

Although, it is true that the application filed by the defendant under Section 8 of the Arbitration and Conciliation Act, 1996 has been dismissed.

However, taking into consideration the fact that the trial has started and the application for amendment, whereby the plaintiff by way of amendment, seeks rendition of account, has been filed after a period of 4 years from the date of filing of the written statement wherein the sale of the vehicle in question was disclosed. This Court does not find any good ground to interfere with the order passed.

Revision petition is dismissed.

04.04.2018
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(ANIL KSHETARPAL)
JUDGE

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