

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

FAO-COM No. 8 of 2018 (O&M)

Date of Decision: 29.10.2018

Madan Mohan Jindal @ Madan Mohan Lal and another

.....Appellants

versus

Fastway Transmissions Pvt. Ltd.

.....Respondent

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
 HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Vikas Mohan Gupta, Advocate, for the appellants.
 Mr. R.Kartikey, Advocate, for the respondent.

KRISHNA MURARI, CHIEF JUSTICE (oral)

This First Appeal against the Order (FAO) is directed against the judgment and order dated 11.09.2018 passed by Additional District Judge-I, Commercial Court, Ludhiana, allowing the application filed by the respondent herein under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act of 1996') and restraining the appellants from using the trade name 'City Cable' in Ludhiana except in due course of law till commencement of the arbitral proceedings and parties to take steps for commencement of arbitral proceedings within a period of 90 days.

2. Relevant facts in brief can be summarized as under:-

Respondent herein is a private Limited company duly incorporated under the Companies Act. Similarly, appellant No.2 was carrying on the business of channel placement, transmission, re-transmission of signals of cable and satellite, television, channels network under the name

and style of “Citi Cable”, which is a proprietorship concern. Both the parties entered into a Slump Sale Agreement dated 26.06.2008 where under the appellants herein agreed for transfer of their business of distribution and transmission of cable television signals along with all cable networking assets, goodwill, customers, distributors and the entire underground optical fiber networking as also the trade name ‘Citi Cable’ for a consideration of Rs. One Crore. The appellants herein received the entire sale consideration by way of a cheque amounting to Rs. 25 lacs dated 10.05.2008 drawn on HDFC bank and another cheque of Rs.75 lacs dated 26.05.2008 also drawn on HDFC bank, Ludhiana. In pursuance to the terms and conditions of the slump sale agreement, the entire cable transmission network with all its assets, customers, equipments, distributors was transferred in favour of the respondent-company herein. However, in utter disregard of the slump sale agreement, when the appellants herein started business of distribution and retransmission of cable television signals in the territory of Bhatinda under the name and style of ‘Citi Cable Net’, an application under section 9 of the Act of 1996 was made pending steps to initiate appointment of an arbitrator and to enter into arbitration proceedings as per terms and conditions of the agreement dated 26.05.2008.

3. The proceedings were contested by the appellants herein mainly on the ground that the agreement stipulates a period of 10 years during which the appellants were under an obligation not to engage in similar business or venture which period has already expired and thus they were free to carry on the business and no restriction can be imposed.

4. In order to resolve the controversy it may be relevant to extract the relevant clause of the slump sale agreement. Clause 20 which contained a stipulation on the seller not to carry out the business or venture similar to the business for a period of 10 years reads as under:-

“20. NON-COMPLETE : The Seller either by themselves or through their relatives associates/affiliates shall not engage, concerned or get interested directly or indirectly or be employed or provide any consultancy in any business or venture which is similar to the Business for a period of ten years from the date of execution of this Agreement in the Territory of India.

For the purposes of this Section the term Territory shall mean the geographical territory of India.”

5. There is no dispute about the fact that the period specified was 10 years from the date of agreement which has come to an end. However, it is also relevant to notice clause 7.1 of the agreement which reads as under:-

“7.1. The right to use the trade name ‘City Cable’ shall exclusively belong to the Purchaser for carrying on the Business & the Seller shall not have any right or claim in the same pursuant to the Completion Date.”

6. Clause 7.1 of the agreement unequivocally states that the right to use the trade name ‘*Citi Cable*’ shall exclusively belong to the purchaser i.e. the respondent company herein and the seller i.e. the appellants herein shall have no right to claim the same. Thus, by entering into the slump sale agreement the appellants herein relinquished their right in the trade name ‘Citi Cable’ alongwith cable transmission business for a valuable consideration and thus the Courts below rightly passed an injunction order and allowed the application under Section 9 of the Act of 1996 and

restrained the appellants from using the trade name ‘Citi Cable’ in any manner till the commencement of the arbitral proceedings.

7. In view of the above facts and discussion, we do not find any illegality in the impugned order passed by the Courts below which requires no interference. The appeal is devoid of any merits and accordingly stands dismissed in limine.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

29.10.2018
ravinder

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