

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: April 10, 2019

1. CR No.446 of 2016 (O&M)

Sanjeev Sharma & others

...Petitioners

Versus

M/s Romesh Ceramix, Kotkapura & others

...Respondents

2. CR No.447 of 2016 (O&M)

Rajeev Sharma & another

...Petitioners

Versus

M/s Romesh Stone Wares, Kotkapura & others

...Respondents

3. CR No.466 of 2016 (O&M)

Rajeev Sharma & others

...Petitioners

Versus

M/s Nutritious Food Industries, Kotkapura & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. S.S.Antal, Advocate,
for the petitioners in all the cases.

Mr. Ravish Bansal, Advocate,
for respondent Nos.1,2,5 & 6 in CR No.446 of 2016,
for respondent Nos.1,3,5,7 & 11 in CR No.447 of 2016 &
for respondent Nos.1,2 & 4 in CR No.466 of 2016.

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of three Civil Revision Petitions bearing No.446, 447 and 466 of 2016 as the common question of fact and law is involved. The facts are being taken from CR No.446 of 2016.

Civil Revision No.446 of 2016 is directed against the impugned order dated 04.11.2015, whereby the application of the respondent-defendants under Section 8 of the Arbitration and Conciliation Act, 1996 (for short, the Act) for referring the dispute to the Arbitrator, has been allowed.

Petitioner-plaintiffs filed a suit for rendition of accounts in respect of a partnership firm emanating the cause of action from the terms of the partnership deed containing an arbitration clause. It was alleged that the other partners, i.e., the defendants had been indulging into mismanagement and squandered away the hard earned money with the intention to cause wrongful loss to the plaintiffs.

Mr. S.S.Antal, learned counsel appearing on behalf of the petitioner-plaintiffs submitted that the Arbitrator has no power to adjudicate the lis between the parties. The jurisdiction vested in the civil court. The respondents are very influential and powerful persons. The application was not accompanied by any certified/original partnership deed. The order under challenge is not sustainable.

Per contra, Mr. Ravish Bansal, learned counsel representing the respondent-defendants submitted that the law with regard to referring the dispute to the arbitrator is no longer *res integra* in view of the ratio decidendi culled out by Hon'ble the Supreme Court in **Firm Ashok Traders and anr. etc. Versus Gurumukh Das Saluja and others etc., 2004(1)**

R.C.R. (Civil) 725, which has been followed till date and, thus, prayed for

dismissal of the revision petitions.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of the learned counsel for the petitioners.

It would be apt to reproduce the relevant clause, which reads thus:-

“In case of any dispute amongst the parties, the matter shall be referred to Arbitration in accordance with the provisions of Indian Arbitration Act, then in force.”

Once the petitioner-plaintiffs have asserted the right claiming rendition of accounts on the basis of the partnership deed containing clause of arbitration, the objection with regard to accompaniment of certified/ original partnership deed pales into insignificance. The claim of rendition of accounts is based upon the books of account of the firm, transaction, since the commencement of the partnership deed, till raising of the dispute and during potential. It would reflect the tenor and mode of the transaction and business which could have been in proper manner or otherwise. The objection taken by the plaintiffs that the original partnership deed was not produced was rejected by the trial Court as the same was already placed on record. Order under challenge cannot be said to be suffering from illegality or perversity.

Before parting with the order, this Court desired from the learned counsel representing the respondents whether any steps have been taken by sending a notice for appointment of the Arbitrator, mode or the procedure, the answer is in “negative”.

For the reasons mentioned above, no ground for interference is made out. Resultantly, the revision petitions are dismissed.

April 10, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No