

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

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**Civil Revision No.1334 of 2021
Date of Decision: July 19, 2021**

Davinder Singh

.....Petitioner.

VERSUS

Hindustan Petroleum Corporation Limited and others.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE G. S. SANDHAWALIA

Present: Mr. R.S. Bajaj, Advocate
for the petitioner.

Mr. Raman Sharma, Advocate
for respondents No.1 and 2.

(The proceedings are being conducted through video
conferencing, as per instructions)

G.S. SANDHAWALIA, J.(Oral)

By filing the present civil revision filed under Article 227 of the Constitution, petitioner seeks directions to the Trial Court to dispose of his application under Order XXXIX Rules 1 and 2 CPC (Annexure P-9), which has been filed with the petition under Section 9 of the Arbitration and Conciliation Act, 1996 (Annexure P-8).

It is the case of the petitioner that by virtue of impugned order dated 21.07.2020 (Annexure P-7), respondent-Corporation, as such, terminated the Retail Outlet Dealership Agreement dated 09.04.2018 pertaining to M/s Bansal HP, situated at Talwara, Daultapur Road, Mukerian District Hoshiarpur. It is his case that as per the agreement dated 09.04.2018 (Annexure P-5) between the Corporation and respondent No.3,

there was an arbitration clause No.66. A petition has been filed in this

Court bearing ARB No.268 of 2020 before this Court seeking reference of the dispute to some arbitrator, which is now pending for 17.08.2021. A petition under Section 9 of the Arbitration and Conciliation Act has been filed before the District Judge, Jalandhar restraining the respondents from allotting the said dealership in the name of any third person in view of impugned notice dated 21.07.2020 (Annexure P-7). It is the case of the petitioner that along with the petition under Section 9 of Arbitration and Conciliation Act, a separate application under Order XXXIX Rules 1 and 2 has been filed.

It is the case of counsel for the petitioner that matter is pending before the Additional District Judge, Jalandhar since 17.08.2020 but no orders have been passed on the said application. Reference has been made to the zimni orders to show that counsel for the Corporation along with private respondent were present on various occasions before the Additional District Judge after the service.

These orders would show that an application under Order VII Rule 10 CPC was filed by private respondent for rejection of the plaint on 18.11.2020. The counsel for the petitioner pressed for interim stay on his application already moved on 12.03.2021 and requested for grant of interim injunction restraining respondent No.1 from allotting the retail outlet to the private respondent during the pendency of the petition. The arguments were partly heard on the stay application on 12.05.2021 and for remaining arguments on the stay application. On application under Order VII Rule 10 CPC, proceedings were deferred to 18.05.2021 and then for 21.05.2021. On 24.05.2021, the Court at Jalandhar decided to take up the application under

vide order dated 31.05.2021 (Annexure P-14), the Trial Court came to the conclusion that the issue of jurisdiction could only be decided after taking evidence of both the sides as validity of the dealership agreement itself was doubted and it was claimed to be fabricated as per the report from CFSL Chandigarh. Counsel for the petitioner submits that now the case is adjourned to 08.09.2021.

Mr. Raman Sharma, Advocate has put in appearance on behalf of respondent-Corporation and does not dispute the factual aspects.

Keeping in view the above and provisions of Section 9 of the Arbitration and Conciliation Act, the deferring of the application for stay, as such, by the Trial Court, is not justified as third party right could come in play during the arbitration proceedings pending before this Court. Therefore, the Trial Court was under a bounden duty to decide the petition under Section 9 of the Arbitration and Conciliation Act read with application under Order XXXIX Rules 1 and 2 CPC expeditiously. The same can be done preferably on the next date of hearing that has already been fixed.

Needless to say that respondent No.3 will also be associated in the process and after accommodating the concerned Court in case the petition cannot be decided on 08.09.2021.

With the above observation, the present revision petition is disposed of.

July 19, 2021
Sachin M.

(G. S. SANDHAWALIA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>