

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 2674 of 2020

Date of Decision: 25.01.2021

M/s K.K. Fibres and Others

... Petitioner(s)

Versus

Tarun Khanna and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Bikramjit Aroura, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

Through this revision petition under Article 227 of the Constitution of India, the petitioner, who is defendant in a suit, assails the correctness of the order dated 27.10.2020, passed by the learned Civil Judge (Junior Division), Amritsar, dismissing the application under Section 8(2) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the 1996 Act”) to refer the dispute to the Arbitrator. The application has been dismissed only on the ground that the defendant-petitioner has failed to comply with the mandatory requirement of sub-section (2) of Section 8 of the 1996 Act.

Learned counsel for the petitioner does not dispute that the original partnership deed is in its possession. If that be so, the petitioner can always file a fresh application under Section 8 of the 1996 Act. The first application has not been dismissed on merits. It has been dismissed only on a technical ground.

Keeping in view the aforesaid facts, the revision petition is

disposed of with liberty to the petitioner to file a fresh application after

making compliance of the requirement under sub-section (2) of Section 8 of the 1996 Act. If such an application is filed, the trial Court would not reject it only on the ground that the previous application was dismissed.

Since this order has been passed without issuing notice to the plaintiff-respondent, he shall be at liberty to move an application to recall thereof.

(Anil Kshetarpal)
Judge

January 25, 2021

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No