

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106

CR-9118 of 2017(O&M)
Date of Order: 11.05.2022

MVN Tutorial Pvt. Ltd.

..Petitioner

Versus

Surendra Pal singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shekhar Verma, Advocate
for the petitioner.

Mr. Keshav Partap Singh, Advocate and
Mr. Shreesh Kakkar, Advocate
for respondent no.1 to 3.

ANIL KSHETARPAL, J(Oral)

In view of the mandate of Section 8 of the Arbitration and Conciliation Act, 1996, the trial court has relegated the parties to the Arbitral Tribunal after recording finding that there is an agreement to get their matters resolved through arbitration.

The learned counsel representing the petitioner admits that in view of the judgment passed by a Larger Bench of the Supreme Court in **Vidya Drolia and others vs. Durga Trading Corporation, (2021) 2 SCC 1**, the Arbitrator is competent to even examine the allegations of fraud. However, he contends that there is a narrow window to avoid arbitration, if the plaintiff proves that the agreement between the parties is void *ab initio*.

In substance, the plaintiff claims that the school along with the land is already on lease with Bharat Pal Singh Charitable Society. He contends that the defendants had no right to execute the lease deed.

It may be noted here that the plaintiff has filed a suit for recovery of Rs.63,00,000/ which is alleged to have been paid.

Per contra, the learned counsel representing respondent no 1 to 3 contends that Sh. Surendar Pal Singh and Sh. Harendera Pal Singh are sons of late Sh. Bharat Pal Singh, whereas Smt. Shakuntla Devi is widow of late Sh. Bharat Pal Singh. They are not only the members of the Society but are also managing it.

Keeping in view the aforesaid facts, it would not be appropriate to hold, at this stage, that the lease agreement is void *ab initio*. Once the parties by agreement have chosen the remedy of resolution of dispute before the Arbitrator, they should not insist on getting the matter adjudicated by the Civil Court, particularly in view of section 8 of the Arbitration and Conciliation Act, 1996

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

May 11, 2022

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No