

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

CR-2020-2022 (O&M)

Date of decision : July 14, 2022

State of Haryana and others

.....Petitioner

Versus

M/s Top Surveying India Private Limited and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Lokesh Sinhal, Additional AG, Haryana.

LISA GILL, J.

Petitioners have filed this petition for setting aside order dated 11.03.2020 (Annexure P4) passed by the learned Additional District Judge-cum-Presiding Judge, Exclusive Commercial Court at Gurugram, whereby their application for permission to bring on record certain facts by way of affidavits, which were not available on the record of learned Arbitrator but are stated to be admitted documents generated by the respondents themselves, has been dismissed.

Petitioners in their pending petition under section 34 of The Arbitration and Conciliation Act, 1996 (for short – ‘the Arbitration Act’) challenging award dated 31.08.2019 filed application dated 24.02.2021 attached as Annexure P2 with this writ petition. Prayer in this application is for permission to bring on record, by way of affidavits all such facts that are not on the record of the Sole Arbitrator but which are stated to be relevant for the just, proper, effective and complete determination of the issues arising under Section 34(2)(a) of the Arbitration and Conciliation Act, 1996.

Learned counsel for the petitioner submits that the claim for recovery filed by respondent No. 1 has been incorrectly allowed by the learned Sole Arbitrator as the said claim(s) is/are time barred. In order to prove the same before the learned Additional District Judge, the petitioners had moved the application in question seeking to place on record certain invoices/vouchers, which would buttress the case of the petitioners. Said documents/invoices, it is contended, have been generated by respondent No. 1 itself and are necessary for the just and proper adjudication of the petition under Section 34 of the Arbitration Act. Therefore, learned Additional District Judge, Gurugram has grossly erred in dismissing petitioners' application vide impugned order dated 11.03.2022. It is, thus, prayed that this petition be allowed.

Heard learned counsel for the petitioners and have gone through the file with his able assistance.

Apart from the fact that, at this stage, learned counsel for the petitioners is unable to point out as to how the said invoices indicate the claim of the said respondent to be time barred, it is to be noticed that as per Section 8 of the Commercial Courts Act, 2015, there is a specific bar against entertaining any revision or petition against an interlocutory order of a Commercial Court. Section 8 of the Commercial Courts Act, reads as under:-

“ Notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court.”

Impugned order dated 11.03.2020 is admittedly an interlocutory order, passed by the exclusive Commercial Court at Gurugram, therefore, present

revision petition is not maintainable in view of Section 8 of Commercial Courts Act, 2015.

No other argument has been addressed.

Accordingly, present revision petition is dismissed.

July 14, 2022

rts

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

(LISA GILL)
JUDGE