

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

**Civil Revision No. 6432 of 2023(O&M)
Date of Decision: 31.10.2023**

IndusInd Bank Ltd.

...Petitioner

Versus

Gurmeet Singh

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Sandeep K. Sharma, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioner/ defendant for setting aside the order dated 18.08.2023 (Annexure P-6) passed by the Court of learned Additional District Judge, Tarn Tarn and order dated 31.03.2021 (Annexure P-4) passed by the Court of learned Civil Judge (Jr.Divn.), Patti.

2. The brief facts of the case are that respondent/ plaintiff has filed suit for permanent injunction restraining the petitioner/ defendant from taking illegal custody of truck No. PB05AB-9778 which was purchased by the respondent after availing loan from the petitioner Bank. On notice, the petitioner appeared in the trial Court and filed an application under Section 8 of the Arbitration and Conciliation Act (in short, the Act) with prayer to refer the matter to the Arbitrator in the light of the loan agreement which was executed between the parties, wherein there was a arbitration clause.

The said application was contested by the respondent and finally the same was dismissed by the learned trial Court vide order dated 31.03.2021 (Annexure P-4) and the appeal filed against the said order was also dismissed by the Court of learned Additional District Judge, Tarn Tarn vide order dated 18.08.2023 (Annexure P-6).

3. The counsel for the petitioner while assailing the aforesaid orders, *inter alia*, contends that in view of the provisions of Section 8 of the Act, it is obligatory for the Court to refer the parties to arbitration in terms of loan agreement (Annexure P-7), which has not been disputed by the respondent. In this regard the counsel for the petitioner has made reference to the decision of Hon'ble Supreme Court in **Anand Gajapathi Raju and others Vs. P.V.G. Raju (Dead) & Ors. (2000) 4 SCC 539**. The counsel for the petitioner further submitted that the similar view was reiterated by the Hon'ble Supreme Court in **Mrs. Hema Khattar & Anr. Vs. Shiv Khera 2017(3) RCR (Civil) 277**.

4. The counsel for the petitioner further submits that the impugned orders are bad in law as were passed by the Courts below while ignoring the settled position of law as has been discussed above. So, prayer is made that the present petition be allowed and the impugned order be set aside.

5. I have considered the submissions made by counsel for the petitioner and gone through the impugned orders.

6. The impugned orders are silent about the law laid down by the Hon'ble Supreme Court in the cases of Anand Gajapathi Raju and Mrs. Hema Khattar (supra), wherein it has been held that once there is an arbitration clause and the one of the parties filed an application under

Section 8 of the Act, then it is obligatory for the Court to refer to the parties to arbitration in terms of the agreement.

7. In light of the above, the impugned orders being illegal are hereby set aside and the matter is remanded back to the learned trial Court to decide the application filed by the petitioner under Section 8 of the Act afresh in accordance with the settled position of law as has been discussed above. The petitioner is directed to appear in the trial Court on the date already fixed in the suit and in case the original loan agreement containing arbitration clause is not produced by the petitioner in the trial Court, the petitioner is hereby directed to produce the same or its certified copy before the Court concerned on the next date of hearing.

8. Keeping in view the circumstances mentioned above, this petition is being disposed of without issuing any notice to the opposite party. If respondent is summoned to contest this litigation, he will have to incur huge expenses to defend this case. However, liberty is granted to the respondent that if he feels dissatisfied with this order, he may move an application to recall the same.

31.10.2023

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(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No