

(201)
**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(1) CM-2056-CII-2024 in/and ARB-155-2018 (O&M)

Rakesh MehraPetitioner
Versus
Radhey Sham Mehra and othersRespondents

(2) CR-2280-2021 (O&M)

Rajesh MehraPetitioner
Versus
Rakesh Mehra and othersRespondents

(3) CR-2459-2021 (O&M)

Radhey Sham Mehra now deceased through his legal heirsPetitioner
Versus
Rakesh Mehra and othersRespondents

(4) CR-2465-2021 (O&M)

Rajesh MehraPetitioner
Versus
Rakesh Mehra and othersRespondents

Date of decision : 15.03.2024

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA, ACTING CHIEF JUSTICE

Present : Mr. Rajesh Sethi, Advocate,
Mr. Arun Biriwal, Advocate,
Mr. Paramdeep Singh, Advocate, and
Ms. Preeti Bansal, Advocate,
for the petitioner in ARB-155-2018.

Mr. Sanjeev Sharma, Senior Advocate, with
Mr. Nimish Gautam, Advocate,
for respondent No.2 ARB-155-2018, and for
the petitioner(s) in CRs-2280, 2459 & 2465-2021.

Mr. Anil Kumar Aggarwal, Advocate,
for respondent No.1 in CRs-2280, 2459 & 2465-2021.

Mr. Dheeraj Mahajan, Advocate,
for respondent Kanchan Mehra in all the four cases

G.S. SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)**CM-2056-CII-2024 in ARB-155-2018**

In view of the reasons mentioned in the application, duly supported by an affidavit, the main case (ARB-155-2018), which is fixed for 10.05.2024, is pre-poned and is taken up today itself for hearing. Resultantly, with the consent of learned counsel for the parties, the Civil Revisions, are also pre-poned and are being taken up along with ARB-155-2018 for hearing.

Application is, accordingly, allowed.

ARB-155-2018 (O&M)

1. This is an application under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') filed for appointment of an Arbitrator to adjudicate the disputes/differences inter-se the parties in accordance with agreement dated 23.10.2011 (Annexure A-1) regarding partition of joint family properties.

2. A perusal of the agreement would go on to show that the dispute is a family dispute between Radhey Sham Mehra (now deceased and represented through his legal representatives, which includes his wife Kanchan Mehra, mentioned in the amended memo of parties) and his sons. The details of the properties have been mentioned in the arbitration agreement itself.

CRs-2280, 2459 & 2465-2021 (O&M)

3. It is not disputed that Radhey Sham Mehra had filed CR-2459-2021 challenging the order dated 27.08.2021 passed by Civil Judge (Junior Division), Amritsar in civil suit No. 3311/1582 of 2015, whereby the prayer for adjourning the case till disposal of the petition under Section 11 of the Act was rejected. A perusal of the plaint of the said civil suit would go on to show that the transfer deed dated 01.02.2012 executed by Radhey Sham

Mehra in favour of Manik Mehra was subject-matter of challenge on the ground that award dated 23.10.2011 had already been passed.

4. Similarly, in CR-2280-2021, challenge was to the order dated 27.08.2021 passed by Civil Judge (Junior Division), Amritsar in civil suit bearing No. CIS 6717 of 2018, whereby similar application for adjourning the proceedings on account of pendency of arbitration petition was dismissed. The said civil suit had been filed by Rakesh Mehra challenging the Wills dated 08.02.2010 and 13.06.2018, executed by Radhey Sham Mehra, on the ground that he was not in a position to execute the same being not physically and mentally fit and not legally competent to do so. In the said civil suit also, Kanchan Mehra, Rajesh Mehra and Manik Mehra are the defendants.

5. Similar order dated 27.08.2021 passed in civil suit bearing No. CIS 6447 of 2018 filed by Rakesh Mehra, whereby the request for adjourning the civil suit sine die on account of pendency of arbitration petition had been rejected, was under challenge in CR-2465-2021. The said suit was for declaration that sale deed dated 31.07.2018 executed by defendant No.1 – Kanchan Mehra, in favour of defendant No.4 – Chaman Lal was in connivance and did not create any legal right in his favour.

6. Thus, from the above, it is clear that the dispute is inter-se the parties as such, who are closely related, apart from a solitary claim against one private defendant – Chaman Lal. The said dispute can be resolved by referring the parties to the Arbitrator, as the issue of rights of Chaman Lal can always be adjudicated at a subsequent point of time after the arbitration award clarifies the legal rights inter-se the parties.

7. Keeping in view the above, this Court appoints Justice Ms. Sabina, former Acting Chief Justice of the Himachal Pradesh High Court,

as Arbitrator, who will conduct the proceedings at the Chandigarh Arbitration Centre. Let her declaration, as required under Section 12 (5) of the Act, be called for and placed before this Court.

8. Since the matter is going to be adjudicated by the Arbitrator and it has been agreed inter-se the parties that they will be bound by the decision of the Arbitrator, there is no requirement to proceed with the Civil Revisions, which are rendered infructuous, and are disposed off accordingly, and the civil suits are also rendered infructuous. The Courts at Amritsar be informed accordingly.

9. It will be open to the Arbitrator to fix the fee, keeping in view the complexity of issues involved and nature of the property as well as the volume of the labour which would go into deciding the disputes.

10. Needless to say that this Court has not commented on the merits of the case and the parties are free to raise all the legal issues before the Arbitrator.

11. Disposed off.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

March 15, 2024
ndj

Whether speaking/reasoned	Yes
Whether reportable	No