120 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-523-2019 (O&M)
Date of decision: 22.07.2024

Navdeep Bansal

....Petitioner

Versus

ICICI Lombard General Insurance Company Ltd. and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Harsh Aggarwal, Advocate for the petitioner

Mr. Sandeep Suri, Advocate,
Mr.Karan Gaba, Advocate and
Mr. Vijiyesh Malhotra, Advocate for respondent no.1&2

Mr. Vipul Sharma, Advocate for respondent no.3 and 4

ANIL KSHETARPAL, J (Oral)

1. In this revision petition, the plaintiff assails the correctness of the trial court's order referring the parties to the Arbitrator for resolving their dispute.

2. In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed.

3. The plaintiff has taken a loan from Indiabulls Housing Finance Limited. The aforesaid loan agreement contains a clause for referring the parties to Arbitration, if there is any dispute. In order to secure the property, an insurance policy was purchased. In the aforesaid insurance policy, it was provided that if the plaintiff suffers any major disease, the insurance company will pay the amount to the Financer namely Indiabulls Housing Finance Limited. The plaintiff is stated to

have suffered a cardiac arrest. However, the Insurance Company repudiated his claim. He filed the civil suit for mandatory and permanent injunction while impleading the Insurance Company as well as Indiabulls Housing Finance Limited, as defendants. An application under Section 8 of the Arbitration and Conciliation Act, 1996 was filed by the creditor, which has been allowed by the trial court. The correctness of such order is challenged before this Court.

4 Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. Learned counsel representing the plaintiff submits that in this suit, the plaintiff has claimed the main relief against the Insurance company, which is not signatory to the arbitration agreement. He submits that the court has erred in referring the parties to the arbitration. Learned counsel representing the creditor admits that fact. However, he submits that there were two agreements and the main agreement contains clause for referring the dispute to the arbitration.

6. Learned counsel representing the Insurance Company supports the plaintiff's stand.

7. This Court has considered the submissions made by the learned counsel representing the parties.

8. The matter can be referred to the Arbitrator only if either there is a contract between the parties or there is a statutory provision, which mandates resolution of dispute through arbitration. In this case, the primary dispute in this suit is between the plaintiff (petitioner herein) and the Insurance Company. In the insurance policy, there is no clause

for referring the parties to the arbitration. The Finance Company has been impleaded as party only as a precautionary measure. In fact, it is not a necessary party.

9. Keeping in view the aforesaid facts, the impugned order is set aside and the suit filed by the plaintiff is restored to its original number. The parties through their counsels are directed to appear before the trial court on 20.08.2024.

10. Disposed of.

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

22.07.2024 **(ANIL KSHETARPAL)**
rekha **JUDGE**
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No