



141 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2761-2024(O&M)
Date of decision : 06.05.2024

M/s Eminent Developers ...Petitioner

Vs.

M/s Spencer's Retail Limited and others ...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Munish Gupta, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (Oral)

1. In this revision petition, the plaintiff assails the correctness of order dated 13.02.2024, whereby an application filed by the plaintiff to re-decide the application under Section 8 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the '1996 Act') has been dismissed on the ground that the same has been filed after a lapse of 08 months.
2. In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed.
3. The previous revision petition filed by the petitioner was allowed on 25.08.2022, with the following order:-

“An application filed by the defendants under Section 8 of the Arbitration & Conciliation Act, 1996, has been allowed while relegating the parties to the remedy of arbitration. The Arbitration clause is contained in a lease agreement dated 16.04.2007.

Heard learned counsel representing the parties at length and with their able assistance perused the paper book.

Learned counsel representing the petitioner



contends that the lease agreement came to an end and thereafter, the parties entered into a settlement agreement dated 14.01.2010 in which there is no provision for settlement of the dispute through an Arbitral Tribunal. It has been contended that the plaintiff has filed a suit for recovery of the amount of taxes paid by him to the department.

On the other hand, learned counsel representing the respondents contends that the settlement agreement dated 14.01.2010 is in continuation of the lease agreement.

On reading the order, it is evident that the Civil Court while deciding application under Section 8 of the Arbitration and Conciliation Act, 1996, did not consider the aforesaid aspects of the matter. On the one hand, the plaintiff claims that the lease deed came to an end and on account of subsequent agreement, the previous agreement could not be enforced. On the other hand, defendants claim that the matter is required to be referred to the arbitrator.

*Since the trial Court has not considered these aspects, hence, it is considered appropriate to request the trial Court to pass a fresh order after considering all these aspects. Consequently, the order dated 15.05.2017 is set aside. The parties through their counsel are directed to appear before the Civil Court on **21.09.2022**. The Court is requested to re-decide the application under Section 8 of the Arbitration and Conciliation Act, 1996, within a period of one month.*

Petition stands disposed of accordingly.”

4. The petitioner filed a suit for recovery of Rs. 4,29,818/- inclusive of principal amount and interest, which was pending. During the pendency of the suit an application under Section 8 of the 1996 Act was filed, which was allowed. The aforesaid order was set aside on 25.08.2022, while directing the trial Court to decide the application afresh. In these circumstances, the suit filed by the plaintiff stood restored to its original number. However, the trial Court has dismissed the application on the ground that the High Court granted one month time to decide the application, whereas, the plaintiff has applied after a period of 08 months.



5. Keeping in view the facts and circumstances of the case, the period of one month is extended to 01 year. Hence, the trial Court is directed to decide the application under Section 8 of the 1996 Act. In the opinion of this Court, the trial court has taken a narrow view of the matter. In the facts of the case, it could have directed the plaintiff to seek extension of time rather than dismissing the application to restore the suit and decide the application afresh.
6. Disposed of.
7. This order has been passed without issuing notice to the respondents, hence, they will have liberty to file application for recalling of this order.

06.05.2024
neeraj

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No