



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

CR-49-2024 (O&M)

Date of Decision:31.07.2025

Jeet Singh

.....Petitioner

Versus

M/s Dhampur Alco Chem Private Limited and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

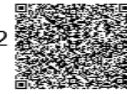
Present:- Mr. Sanjay Majithia, Senior Advocate with
Mr. Sumit Sinha, Advocate for the petitioner.

Mr. S.S. Behl, Advocate,
Mr. Gaurav Vir Singh and
Ms. Raageshwari Sharma, Advocate for respondent No.1.

JASGURPREET SINGH PURI J.(Oral)

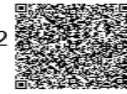
1. The present is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 16.11.2023 (Annexure P-7) passed by the learned Civil Judge (Junior Division), Gurugram, whereby the application under Section 8 of the Arbitration and Conciliation Act, 1996, filed at the instance of respondent No.1, was allowed and the dispute was referred to arbitration in terms of the Memorandum of Understanding dated 02.09.2019 executed between the petitioner and respondent No.1.

2. While giving the brief facts of the present case, learned Senior Counsel appearing on behalf of the petitioner submitted that respondent No.1, being a construction company, had acquired a licence for development of land in Village Nakhnaula, Sector 81, Manesar, Urban



Complex, Gurugram, under a collaboration agreement with another firm for the purpose of development of a commercial colony. They made various investments as well and thereafter the aforesaid respondent No.1 entered into a Memorandum of Understanding, which was in the nature of a contract vide Annexure P-1 dated 02.09.2019, with the present petitioner. In this way, a contract was executed between the petitioner and respondent No.1, whereby, on the basis of consideration, the development work of the area was to be undertaken by the petitioner, and accordingly, the petitioner was to further proceed with the project. Various terms and conditions were laid down in the agreement, including those pertaining to seeking consent from the landowner and for transfer of licence to the petitioner etc. He further submitted that the petitioner paid an amount of Rs.1,00,00,000/- (Rupees One Crore) upfront and thereafter, respondent No.1 did not comply with the terms and conditions of the contract, but rather violated them.

3. Learned Senior Counsel further submitted that, however, after executing the contract with the petitioner, respondent No. 1 entered into a contract with other persons, who are respondents No. 2 and 3 in the present case, thereby defeating the rights of the petitioner by violating the terms and conditions of the contract. He further asserted that it was for this reason that the petitioner filed a civil suit for declaration and mandatory injunction vide Annexure P-4 against respondent No.1 as well as impleading two more entities, to whom it was alleged that respondent No.1 had transferred the interest by way of an MOU. He also submitted that after notice in the suit was issued by the learned Civil Judge (Junior



Division), Gurugram, respondent No.1 objected to the suit and pleaded the invocation of Section 8 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act'). On the basis of the application filed by respondent No.1 under Section 8 of the Act, the same was allowed by way of the impugned order, and the suit filed by the petitioner was returned, referring both the parties to arbitration in terms of the Memorandum of Understanding dated 02.09.2019 as per Clause 13. He also submitted that there is no dispute that there was an arbitration clause incorporated in the MOU vide Clause 13 and both parties were bound by the arbitration clause, but at the same time it was a case which was not arbitrable because the allegations of the petitioner in the civil suit were that respondent No. 1 had transferred his interest, which was vested with the petitioner by respondent No. 1 and therefore third-party interest was involved in the present case. He submitted that once a third party had come into the picture, there could not have been any arbitration and therefore, the learned Civil Judge (Junior Division), Gurugram, by way of the impugned order, has erroneously allowed the application under Section 8 of the Act and returned the suit, giving liberty to the parties to proceed for arbitration in terms of Clause 13 of the MOU dated 02.09.2019. He further submitted that since the subject matter was not arbitrable due to the absence of privity of contract with respondents No.2 and 3, who are also arrayed as defendants No.2 and 3 in the civil suit, the impugned order is liable to be set aside. He further submitted that defendants No.2 and 3 are respondents in the present petition as well but they have not appeared despite being served.

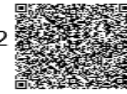


4. On the other hand, learned counsel appearing on behalf of respondent No.1 submitted that the petitioner, to whom the rights were vested by respondent No.1 by way of the aforesaid MOU, has raised a dispute with regard to the violation of the terms and conditions of the contract. At the same time, it is undisputed that there exists an arbitration clause vide Clause 13 and therefore, clearly if at all there is any violation of any terms and conditions of the contract, including any allegation of transferring of rights by any of the parties, the same is also an arbitrable dispute. In this regard, he referred to the second part of Clause 5 of the aforesaid MOU, which provides that the second party, who is the present petitioner, will not enter into any violation of rules/laws of any government department or create any third-party rights in the license etc. He submitted that it was the petitioner who rather tried to divest the licence, which was originally granted to him, to some other persons, and therefore it was the petitioner who had violated the terms and conditions of the contract. So far as the present respondent No. 1 is concerned, although he has alleged so in the civil suit but the same at most can be treated as a violation of the terms and conditions of the contract for the sake of argument, but the same is still arbitrable in nature because the dispute has arisen in terms of Clause 13 of the Agreement and since a dispute has arisen, a civil suit would not be maintainable.

5. I have heard the learned counsels for the parties.

6. The relevant clause in the agreement i.e. Clause 13 of Annexure P-1 is reproduced as under:-

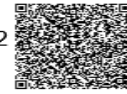
“13. Any dispute relating to the aforesaid land or arising out of this MOU shall be decided



exclusively by the courts at Gurgaon. Any dispute relating to the present MOU shall be settled through Arbitration by a Sole Arbitrator appointed under the Arbitration & Conciliation Act, 1996 and the Place of Arbitration will be Delhi.”

7. During the course of arguments, it transpired that both the parties i.e. the petitioner and respondent No.1, are making counter-allegations with regard to the fact that the rights vested in them have been transferred to some third party. The petitioner filed a civil suit by making such allegations, whereas learned counsel for respondent No.1 submitted that in fact, the petitioner himself, in order to defeat the rights of respondent No.1, had made arrangements with some other person. He further submitted that the petitioner had, in fact, entered into an agreement with another person even after having executed the MOU with the present respondent No.1 vide Annexure P-1. Therefore, the fact remains that, so far as the execution of the MOU (Annexure P-1), which is in nature of a contract, is concerned, the same remains undisputed and the aforesaid Clause 13 also remains undisputed. Clause 13 provides that any dispute related to the land in question or anything arising out of the MOU shall be decided exclusively by the courts at Gurgaon, and any dispute relating to the present MOU shall be settled through arbitration by a sole arbitrator appointed under the Arbitration and Conciliation Act, 1996, and the place of arbitration will be at Delhi.

8. The civil suit filed by the petitioner, seeking declaration and mandatory injunction, was based on the allegation that respondent No.1 had violated the terms and conditions of the contract by transferring the interest to a third party, i.e. defendants No.2 and 3, by way of different



MOUs. It was the learned Civil Judge (Junior Division), Gurugram, who returned the suit and also referred the parties to arbitration in terms of the MOU, on the basis of the application filed by respondent No.1 under Section 8 of the Act. The argument which was advanced by learned Senior Counsel for the petitioner and which was also taken up before the learned Civil Judge (Junior Division), Gurugram by the petitioner-plaintiff, the same aspect was considered in the impugned order. It was observed by the learned Civil Judge (Junior Division), Gurugram, that in the instant case, the existence of an arbitration clause in the agreement is accepted by both the parties as also by the Court below but the applicability thereof is disputed by the respondents and the said dispute is accepted by the Court below and therefore the arbitration clause was admitted. Even during the course of arguments in the present case, the learned Senior Counsel for the petitioner has not disputed the existence of the arbitration clause but has only argued that the dispute was not arbitrable because third-party rights were involved. However, on the other hand, learned counsel for respondent No. 1 has submitted that the rights of the parties to refer dispute to arbitration cannot be defeated by making an allegation that respondent No. 1 has entered into some other MOU, whereas in fact the petitioner himself has divested his rights to some other person and violated the terms and conditions of Clause 5 of the MOU in this regard. A perusal of the agreement which contains the aforesaid Clause 13 would clearly show that any dispute relating to the present MOU shall be settled through arbitration by a sole arbitrator. The *lis* herein also relates to a dispute which has arisen out of the present MOU. The expression 'any' would include any kind of



dispute. In case the petitioner is aggrieved by any dispute by which, according to him, he is prejudicially affected, then it would certainly fall within the expression 'any dispute.' On the other hand, by making allegations pertaining to the transfer of some interest by respondent No. 1 to respondents No. 2 and 3 itself cannot mean that the rights and liabilities which have arisen from the statutory provisions of the Arbitration and Conciliation Act, by virtue of the aforesaid clause which has been admitted, can be forfeited.

9. So far as respondents No.2 and 3 are concerned, who are the defendants in the civil suit, they did not choose to appear before this Court despite being served.

10. This Court, therefore, does not find any illegality or perversity in the impugned order passed by Civil Judge (Junior Division), Gurugram.

11. Consequently finding no merit in the present revision petition, the same is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

31.07.2025

shweta

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