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

CR-7340-2024 (O&M)

Date of Decision: 08.04.2025

M/S Super Papers and Others

....Petitioners

Versus

Hitesh Kumar Sahni and Others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Akhilesh Vyas, Advocate
for the petitioners.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition assails the order dated 04.10.2024 (Annexure P-7) passed by the Court of learned Rent Controller, Ludhiana vide which the application moved by the present petitioner under Section 8 of the Arbitration and Conciliation Act, 1996 (for short '1996 Act') for referring the matter to arbitration was dismissed.

2. A petition under the Punjab Rent Act, 1995 (for short 'the 1995 Act') was instituted by the respondents/landlords against the petitioners/tenants for their eviction from the demised premises situated in Sarabha Nagar, Ludhiana (fully described in the eviction petition) on the ground of non-payment of Rent of Rs.1,31,61,814/-. An application under Section 8 of the 1996 Act (Annexure P-4) was moved stating that parties to the eviction petition were governed by lease deed dated 15.12.2015 which contained a specific arbitration agreement (Article 20) as per which, all disputes would be referred for arbitration by a Sole Arbitrator. This application was opposed by way of reply (Annexure P-5) stating that eviction petitions could not be taken up by the Arbitrator in view of the law laid down by the Supreme Court of India. The said application has been dismissed

by way of the impugned order, leading to the filing of the present revision petition.

3. I have heard learned counsel for the petitioners.

4. Learned counsel for the petitioners submits that in view of the arbitration agreement between the parties, the matter was required to be referred for arbitration. He has referred to the lease deed (Annexure P-1). He further submits that there is already an arbitral award between the parties which was passed on 08.10.2021 (Annexure P-6) and under the circumstances, the matter was required to be referred for arbitration. Learned counsel submits that the Court of learned Rent Controller, Ludhiana erred in dismissing the application moved by the petitioners/tenants and, therefore, the order is not sustainable.

5. I have considered the submissions made by learned counsel for the petitioners and find the same to be devoid of merit.

6. The lease deed is on record as Annexure P-1. The same is a registered lease deed and admittedly, it contains an arbitration agreement.

ARTICLE 20

ARBITRATION

A. Any dispute arising howsoever in connection with the interpretation or implementation or purported termination of this Agreement, the Parties shall attempt in the first instance to resolve such dispute by friendly consultations.

B. If such dispute is not resolved through friendly consultations within 2 Weeks after commencement of discussions or such longer period as the Parties agree to in writing, then any Party may refer the dispute for resolution by arbitration in accordance with the provisions of Arbitration and Conciliation Act, 1996.

C. Any dispute arising between Lessor and Lessee arising out of or in connection with termination of this agreement, other than the dispute related to payment of rent and on no occasion the payment of rent will be stopped by the Lessee, shall initially be resolved by amicable negotiations amongst senior executives of the Parties and, if not resolved through such negotiations within 30 (thirty) days of written notice of the existence of such dispute, be finally settled by binding arbitration as per the provisions of the Arbitration and

Conciliation Act, 1996 as amended from time to time, by a tribunal comprising 3 (three) arbitrators. Each Party to the arbitration shall appoint 1 (one) arbitrator and the 2 (two) arbitrators thus appointed shall appoint the third arbitrator who will act as a presiding arbitrator of the tribunal (together forming the "Arbitral Tribunal")

D. All such disputes related to rent shall be referred to and finally resolved by arbitration by a sole arbitrator to or any person appointed by him Dr. Amanish Singh S/o Roshan Singh as agreed by the LESSORS and LESSEE today. The arbitration proceedings shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 as may be applicable from time to time or any other enactment replacing it. The language of the arbitration shall be English.

E. Each party shall bear its costs of such Arbitration. When any dispute is under arbitration, except for the matters under dispute, the Parties shall continue to exercise their remaining respective rights and fulfill their remaining respective obligations under this Agreement to the extent practicable.

F. The place of arbitration shall be Ludhiana & any award made whether interim or final, shall be deemed for all purposes between the Parties to be made, in Ludhiana.”

7. It is also an admitted position that earlier as regards recovery of a sum of Rs.38,98,120/- as rent due alongwith interest amounting to Rs.10,50,000/-.

Arbitral Award dated 08.10.2021 (Annexure P-6) was passed holding as under:

“19. After due consideration of the afore said facts and circumstances and evidence adduced, I now make my award as follows:

a) That the respondents jointly and severally pays to the claimants a sum of Rs. 45,24,181/-(Forty Five Lacs Twenty Four Thousand One Hundred & Eighty One Only) , i.e. arrears of rent from the date of default, plus interest @12% p.a from the date of default till the filing of the claim petition.

b) That further the respondents jointly and severally pays to the claimants interest @ 12% per annum on an amount of Rs. 37,98,120/- (after deducting an amount of part payment of Rs. 1,00,000/- from the principal claim amount of Rs. 38,98,120/-) from the date of claim petition till its realization.

c) The respondents are further directed to pay the pendente lite rent i.e. arrears of rent from the date of filing of the present claim petition till the date of Award i.e. from 01-11-2020 to 31-12-2020 @

2,48,050/- per month (Total : 4,96,100/-) and from 01-01-2021 to 30-09-2021 @ Rs. 2,60,450/- p.m (Total : 23,44,050/-) i.e. total amount of Rs. 28,40,150/- (Twenty Eight Lacs Forty. Thousand One Hundred & Fifty only) alongwith interest @ 9% p.a from the date of award till its realization.

d) That the claimants are entitled to recover the above said amount as per their share as mentioned in the Schedule-II of the Lease Deed.

e) The cost of the present arbitration proceeding has been quantified at Rs. 20,000/-, which shall be bear by both the parties equally and claimants are entitled to recover the amount of Rs. 10,000/- from the respondents.

f) The claimants shall be entitled to recover all costs and expenses that may be incurred in seeking recovery of the amount from respondents.

In compliance with the provisions of Section 31 (4) of the Arbitration and Conciliation Act 1996 it is recorded that the Arbitration Proceedings stands concluded today at Chamber no. 343, Districts Courts, Ludhiana. Passed and pronounced today, that is 08th October 2021.

This Award contains 17 Pages and copy of same is being supplied to parties.”

8. It appears that the said award was not honoured. In any case, eviction petition was filed for eviction of the petitioners/tenants from the suit property on the ground of non-payment of rent.

9. Now the question arises for consideration is as to whether the eviction petition would be filed before the Court of learned Rent Controller or before the Arbitrator. The question is no longer *res integra* and has been settled by the Supreme Court of India in the case of ‘**Vidya Drolia and Others Vs. Durga Trading Corporation**’, 2021(2) SCC 1 and ‘**Booz Allen and Hamilton Inc. Vs. SBI Home Finance Limited and Others**’, (2011) 5 SCC 532. In the case of ‘**Vidya Drolia and Others Vs. Durga Trading Corporation**’ (supra), the Supreme Court of India has held as under:

“48. Landlord-tenant disputes governed by the Transfer of Property Act are arbitrable as they are not actions in rem but pertain

to subordinate rights in personam that arise from rights in rem. Such actions normally would not affect third-party rights or have erga omnes affect or require centralized adjudication. An award passed deciding landlord-tenant disputes can be executed and enforced like a decree of the civil court. Landlord-tenant disputes do not relate to inalienable and sovereign functions of the State. The provisions of the Transfer of Property Act do not expressly or by necessary implication bar arbitration. Transfer of Property Act, like all other Acts, has a public purpose, that is, to regulate landlord tenant relationships and the arbitrator would be bound by the provisions, including provisions which enure and protect the tenants.

49. In view of the aforesaid, we overrule the ratio laid down in Himangni Enterprises and hold that landlord-tenant disputes are arbitrable as the Transfer of Property Act does not forbid or 63 foreclose arbitration. However, landlord-tenant disputes covered and governed by rent control legislation would not be arbitrable when specific court or forum has been given exclusive jurisdiction to apply and decide special rights and obligations. Such rights and obligations can only be adjudicated and enforced by the specified court/forum, and not through arbitration.”

10. Keeping in view the law laid down by the Supreme Court of India and the fact that the instant dispute is governed by the 1995 Act and the Court of Rent Controller has been given the exclusive jurisdiction to decide such disputes, it will be the Rent Controller who will have the jurisdiction to deal with the eviction petition and the matter would not be required to be referred for arbitration. The Court of learned Rent Controller, Ludhiana dealt with the matter from the correct perspective and while noticing that out of Rs.1.40 Crores which was outstanding, not even a single penny had been paid and by also referring to the settled law on the subject, rejected the application moved under Section 8 of the 1996 Act. I do not find any illegality or jurisdictional error in the said order warranting interference. The fact that parties had earlier gone in for Arbitration would not also foreclose the filing of an eviction petition in the Court of the Rent Controller as the previous matter was only as regards recovery of rent.

Consequently, the revision petition is found to be devoid of merit and is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

08.04.2025
Prince Chawla

Whether speaking/reasoned :
Whether reportable :

Yes/No.
Yes/No.