
(2003) 08 P&H CK 0114
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1948 of 2001

Monica Electronics Limited

APPELLANT

Vs

R.V.A. Associates

RESPONDENT

Date of Decision : 14-08-2003

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 8

Citation : (2004) 1 ARBLR 177 : (2004) 1 CivCC 387 : (2004) 136 PLR 46 :
(2003) 4 RCR(Civil) 378 : (2003) 4 RCR(Civil) 379

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Advocate : Rajesh Garg, for the Appellant; C.B. Goel, for the Respondent

Final Decision : Allowed

Judgement

Viney Mittal, J.—In view of the law laid down in the case of Shiv Shakti Coop. Housing Society, Nagpur Vs. Swaraj Developers and Others, , the revision petition filed by the petitioner u/s 115 CPC is not maintainable.

2. Faced with this difficulty, the learned counsel submits that the present revision petition be treated as petition under Article 227 of the Constitution of India. The prayer made by the learned counsel is allowed,

3. The defendants are aggrieved against the order passed by the learned trial Court rejecting their application. The application was filed by the defendant-appellants u/s 8 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the "Act"). It was claimed that as per Clause 21 of the agreement between the parties, the matter was liable to be referred to the Arbitrator.

4. The learned trial Court rejected the prayer made by the applicants and it was also observed that the legality of the arguments was still under dispute and, therefore, the application was not maintainable.

5. The learned counsel for the petitioners has submitted that the observations

made by the learned trial court were contrary to the provisions of the Act. According to the learned counsel the order passed by the learned trial Court was totally sketchy and did not contain the reasons for rejection of the application. In fact the learned trial Court had not dealt with the various pleas raised by the applicant-petitioners in support of their application.

6. After hearing the learned counsel for the parties and perusing the impugned order, I find that the learned trial court had not dealt in detail the various pleas raised by the applicant-petitioners. The provisions of the Act have also not been taken into consideration. Under the provisions of Section 16 of the Act, an Arbitrator appointed under the Act had the jurisdiction to adjudicate upon any of the observations with regard to the existence or validity of the agreement itself. The said provision has not even been noticed by the learned trial Court.

7. Without commenting further with regard to the controversy involved in the present case, I set aside the impugned order passed by the learned trial Court and remand the matter back to it to redecide the application filed by the applicant-petitioners after taking into consideration the provisions of the Act, the various pleas raised by the parties and circumstances of the case.

8. The parties are directed through their counsel to appear before the learned trial Court on October 14, 2003.

R.M.S.