

(2012) 07 P&H CK 0180
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 3847 of 2012

M/s. Lovely Obsessions Pvt. Ltd., Gurgaon	APPELLANT
Vs	
M/s. Sahara India Commercial Corporation Ltd. Gurgaon	RESPONDENT

Date of Decision : 05-07-2012

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 8
Constitution of India, 1950 — Article 227

Citation : (2012) 168 PLR 445

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Advocate : Raj Mohan Singh, for the Appellant;

Final Decision : Dismissed

Judgement

L.N. Mittal, J.—Plaintiff has filed this revision petition under Article 227 of the Constitution of India assailing order dated 11.05.2012 (Annexure P-8), passed by learned Additional Civil Judge (Senior Division), Gurgaon, thereby allowing application (Annexure P-4) moved by defendant respondent u/s 8 of the Arbitration and Conciliation Act, 1996 (in short - the Act) and thereby, referring the parties to the Arbitrator as per arbitration clause contained in lease deed dated 12.11.2009 (Annexure P-1). It is undisputed that the plaintiff took the suit property on rent from defendant vide lease deed dated 12.11.2009 (Annexure P-1) for the period from 12.11.2009 till 11.10.2010. The plaintiff has filed suit on 23.04.2012 for permanent injunction to protect his possession over the demised property.

2. Defendant-respondent moved application (Annexure P-4) u/s 8 of the Act alleging that in view of arbitration clause no. 30, contained in the lease deed, the dispute has to be decided by the Arbitrator. Plaintiff-petitioner, by filing reply (Annexure P-5), opposed the aforesaid application. It was pleaded that after expiry of lease period on 11.10.2010 under the lease deed, the tenancy was orally renewed from time to time and the defendant-respondent had been

receiving rent. It was also pleaded that since lease period under the lease deed had expired, the arbitration clause contained in the lease deed ceased to be operative.

3. Learned trial court, vide impugned order (Annexure P-8), allowed the defendant's application. Feeling aggrieved, plaintiff has filed this revision petition.

4. I have heard learned counsel for the petitioner and perused the case file.

5. Counsel for the petitioner contended that the lease period under the lease deed having expired, arbitration clause contained in the lease deed is no longer operative, and therefore, application u/s 8 of the Act could not be allowed. It was also contended that the plaintiff cannot be ejected from the suit property except in accordance with provisions of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (in short - the Rent Act). The defendant asserted that the Rent Act is not applicable as construction of the building was completed in the year 2003 and is exempt from the Rent Act.

6. I have carefully considered the aforesaid contentions, but the same cannot be accepted.

7. It is undisputed that the plaintiff took the suit property on lease for 11 months from the defendant-respondent vide lease deed (Annexure P-1). Clause 30 of the said lease deed is reproduced hereunder:-

30. This agreement shall be governed by and be construed in accordance with the laws of India. Any claim, controversy or dispute arising out of or in connection with this agreement, not settled mutually within one month, shall be referred to Arbitration in accordance with the provision of the Arbitration and Conciliation Act, 1996. One Arbitrator each shall be appointed by the Lessor and Lessee who in turn will appoint a third Arbitrator. The arbitration proceedings shall be conducted at Gurgaon in the state of Haryana, India. The award of the panel of Arbitrators shall be final and binding on both the parties. During the pendency of arbitration, the parties shall continue to discharge their respective obligations under this agreement.

8. A bare perusal of the aforesaid arbitration clause, contained in the lease deed, reveals that every dispute arising out of or in connection with the lease deed has to be referred to arbitration. The arbitration clause is worded very widely and covers the dispute raised by the plaintiff-petitioner in the suit. Application u/s 8 of the Act has, therefore, been rightly allowed by the trial court. The arbitration clause has not become defunct or inoperative merely because the lease period under the lease deed has expired.

9. As regards applicability of the Rent Act, the said issue can be decided by the Arbitrator because all disputes have to be decided by the Arbitrator. For the reasons aforesaid, I find no merit in this revision petition. Impugned order of the trial court, allowing application of the defendant-respondent u/s 8 of the Act, does not suffer from any perversity, illegality or jurisdictional error regarding

applicability of Section 8 of the Act to the dispute. There is, therefore, no merit in the revision petition, which is accordingly dismissed in limine.

Nothing in this order or in the impugned order of the trial court shall have any bearing on rights of the parties to be adjudicated upon by the Arbitrator.