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**(1978) 01 P&H CK 0018**

**In the Punjab And Haryana At Chandigarh**

**Case No : First Appeal from Order No. 338 of 1977**

Union of India

APPELLANT

Vs

M/s Hira Lal Sud and others

RESPONDENT

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**Date of Decision : 17-01-1978**

**Acts Referred:**

Arbitration Act, 1940 — Section 34

**Citation : (1978) 01 P&H CK 0018**

**Hon'ble Judges : S.P. Goyal, J**

**Bench : Single Bench**

**Advocate :** Ajit Singh Sarhadi, A.G. Punjab with Mr. N.S. Bhatia, for the Appellant; Thakur Maluk Singh, for the Respondent

**Final Decision : Dismissed**

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## Judgement

S.P. Goyal, J.—Hira Lal, respondent filed this suit to avoid the alleged contract and for recovery of Rs. 2,05,000/-. After the service of summonses on the defendant, Union of India. Shri A.S Narula, Government Pleader appeared in the trial Court on February 4, 1975 and got an adjournment for filing a written statement. The case was adjourned several times for the same purpose till July 19, 1976, when an application was moved u/s 34 of the Indian Arbitration Act for staying further proceedings. The plaintiff opposed this application and pleaded that the same was not main-tamable as the respondent has already taken steps in the proceedings by seeking adjournment to file the written statement. The trial Court after recording evidence of the parties sustained the objection of the plaintiff and dismissed the application vide order dated March 14, 1977. Aggrieved by that order the Union of India has come up in this appeal.

2. Mr. Ajit Singh Sarhadi, learned counsel for the appellant, relying on this Court's decision in Punjab State Vs. Moji Ram, argued that the request for adjournment was made to discover the exact nature of the suit and, therefore, it could not be said that the defendant took any steps in the proceedings by asking for adjournment. That case is, however, distinguishable on facts for the reason

that no copy of the plaint was served with the summonses on the Government and the Government Pleader, it was found, had appeared without any instructions from the Government.

3. The present case is fully covered by ? decision of the Supreme Court in The State of Uttar Pradesh and Another Vs. Janki Saran Kailash Chandra and Another, , wherein the order declining: the prayer u/s 34 of the Act was upheld because of the application submitted to seek adjournment to file the written statement. The learned counsel for the appellant, however, sought to distinguish this case on the ground that in the present case no application has been filed to seek the adjournment. I am, however, unable to agree with the learned counsel for the appellant, because an oral request for adjournment is as good as a written request. If a written request seeking adjournment to file written statement amounts to taking steps in the proceeding I find no reason why an oral request to same effect would not amount to taking such a step.

4. This appeal has, therefore, no merit and is accordingly dismissed, but without any order as to costs.