



Manmohan vs. Vinay Singh

COPC No. 233 of 2023

04.08.2023 Present: Mr. Ashok Kumar, Advocate, for the petitioner.

Mr. Ramakant Sharma, Ms. Sharmila Patial, Addl. A.Gs. with Mr. Rajat Chauhan, Law Officer, for the respondent.

Notice. Mr. Ramakant Sharma, learned Additional Advocate General, appears and waives service of notice on behalf of the respondent.

Reply/instructions be filed/obtained within one week.

List on 11.08.2023.

**(Tarlok Singh Chauhan)
Judge**

4th August, 2023
(Sanjeev)

High Court of Punjab

Pardeep Kumar vs. Rohan Chand Thakur

COPC No. 234 of 2023

04.08.2023 Present: Mr. Ashok Kumar, Advocate, for the petitioner. ◊

Mr. Vinod Gupta, Advocate, for the respondent.

Notice. Mr. Vinod Gupta, Advocate, appears and waives service of notice on behalf of the respondent.

Reply/instructions be filed/obtained within one week.

List on 11.08.2023.

**(Tarlok Singh Chauhan)
Judge**

4th August, 2023

(Sanjeev)

High Court

**H. P. Non-Gazetted Judicial Employees' Welfare Asocation vs.
Maneesh Garg**

COPC No. 566 of 2014

04.08.2023 Present: Mr. Ajay Sharma, Sr. Advocate with Mr. Athrav Sharma, Advocate, for the petitioner.

Mr. Ramakant Sharma, Ms. Sharmila Patial, Addl. A.Gs. with Mr. Rajat Chauhan, Law Officer, for the respondent.

Response to the report submitted by the learned Registrar General in terms of the previous order is stated to have been filed in the Registry on 03.08.2023. However, the same is not on record. The Registry to trace and place the same on record, even if it is under objection.

List for consideration on 11.08.2023.

**(Tarlok Singh Chauhan)
Judge**

4th August, 2023
(Sanjeev)

Gian Chand vs. Jagdish Chand & Ors.

RSA No. 58 of 2017

04.08.2023 Present: None for the appellant.

Ms. Kiran Sharma, Advocate vice Mr. Lovneesh Kanwar, Advocate, for respondents No. 1 & 2.

The sole appellant is stated to have died and his LRs despite opportunities have not come on record.

Consequently, the present appeal is dismissed for want of prosecution.

**(Tarlok Singh Chauhan)
Judge**

4th August, 2023
(Sanjeev)

High Court

Krishan Gupta vs. Raksha Diwan

RSA No. 218 of 2017

04.08.2023 Present: Mr. Rajesh Kumar, Advocate, for the appellant.

Ms. Bhawna Sharma, Advocate, vice Mr. Navlesh Verma, Advocate, for the respondents.

CMP(M) No. 384 of 2023

Learned vice counsel for the respondents states that reply is being filed during the course of the day. Her statement is taken on record. Rejoinder, if any, within three weeks.

List on 01.09.2023.

**(Tarlok Singh Chauhan)
Judge**

4th August, 2023
(Sanjeev)

High Court

Rahul Sharma vs. State of H.P. & Ors.

CMPMO No. 353 of 2023

04.08.2023 Present: Ms. Kamlesh Shandil, Advocate, for the petitioner. ◊

Mr. Ramakant Sharma, Ms. Sharmila Patial, Addl. A.Gs. with Mr. Rajat Chauhan, Law Officer, for the respondents.

CMPMO No. 353/2023 & CMP No. 9398/2023

Notice. Mr. Ramakant Sharma, learned Additional Advocate General, appears and waives service of notice on behalf of the respondents.

Reply/instructions be filed/obtained within one week.

List on 11.08.2023.

**(Tarlok Singh Chauhan)
Judge**

4th August, 2023
(Sanjeev)

Krishan Chand vs. State Bank of India & Ors.

CMPMO No. 242 of 2019

04.08.2023 Present: Mr. Aman Parth Sharma, Advocate, for the respondent.

Mr. Arvind Sharma, Advocate, for respondent No. 1.

Let record of the case be requisitioned by the Registry so as to reach this Court well before the next date of hearing.

List on 25.08.2023.

(Tarlok Singh Chauhan)
Judge

4th August, 2023
(Sanjeev)

High Court of J&K

Smt. Nirmaljeet Kaur vs. Manju Mamik & Ors.

CMPMO No. 140 of 2021

04.08.2023 Present: Mr. Romesh Verma, Sr. Advocate with Mr. Hitesh Thakur, Advocate, for the petitioner.

Mr. Atul Jhingan, Advocate, for respondents No. 1 to 3.

Mr. Rajnish K. Lal, Advocate, for respondent No. 4.

Learned counsel for the petitioner states that necessary application for bringing on record the LRs of respondent No. 5 has been filed, however, the same is not on record. Registry to trace and place the same on record.

List on 11.08.2023.

**(Tarlok Singh Chauhan)
Judge**

4th August, 2023
(Sanjeev)

Smt. Lajwanti Devi & Anr. vs. Ramesh Chand

RSA No. 311 of 2017

04.08.2023 Present: Mr. Neeraj Gupta, Sr. Advocate with Mr. Janesh Gupta, Advocate, for the appellant.

None for the respondent.

CMP No. 3075 of 2023

The applicant/respondent has failed to file its rejoinder. Despite repeated calls, there is no appearance on behalf of the applicant/respondent, which goes to indicate that the applicant/respondent is probably not interested in pursuing this application. According, the same is dismissed.

**(Tarlok Singh Chauhan)
Judge**

4th August, 2023
(Sanjeev)

High Court

H. P. Financial Corp. vs. M/s Luxmi Furniture & Saw Mills

**CR No. 50 of 2009 with
RSA No. 11 of 2018**

CR No. 50 of 2009

04.08.2023 Present: Mr. Ajay Sharma, Sr. Advocate with Mr. Athrav Sharma, Advocate, for the petitioner.

None for the respondent.

RSA No. 11 of 2018

None for the appellant.

Mr. N. K. Sharma, Advocate, for the respondents.

Since one of the counsel in each case is not present, therefore, the case is adjourned for next week.

List on 11.08.2023.

**(Tarlok Singh Chauhan)
Judge**

4th August, 2023
(Sanjeev)

M/s Kundlas Loh Udhyog vs. M/s SRMB Srijan Pvt. Ltd. & Anr.**Arb. Case No. 633 of 2023**

04.08.2023 Present: Mr. Shrawan Dogra, Sr. Advocate with Mr. Vinod Thakur and Mr. Yudhbir Singh Thakur, Advocates, for the petitioner.

Arb. Case No. 633/203 & OMP No. 357 of 2023

Issue notice to the respondents returnable for 29.09.2023 on taking steps within two days.

The instant application under Section 9 of the Arbitration and Conciliation Act, 1996 seeks to restrain the respondents from constituting an Arbitral Tribunal in furtherance of the Arbitration reference notice dated 10.07.2023 and also seeks an injunction against respondent No. 1 not to act in furtherance of such notice.

2. A perusal of the supplementary agreement entered between the parties goes to indicate that as per Article 5 Clause IV pertaining to law and jurisdiction, the parties have agreed that the Courts at Kolkata shall have jurisdiction for all disputes or claims.

3. However, there is yet another clause, i.e. Clause-5 relating to dispute resolution, which reads as under:-

v) DISPUTE RESOLUTION

Unless stated to the contrary in this Supplementary Agreement, a dispute between the Parties at any time in regard to any matter arising from the Supplementary Agreement or its interpretation or rectification shall be submitted for settlement by negotiation by the each Party In the event that the dispute cannot be resolved by the Parties within thirty (30) days it shall be referred to and settled by arbitration proceeding.

The arbitration shall be held at Kolkata in accordance with the Arbitration and Conciliation Act, 1996 and any subsequent amendment thereon.

If a party reasonably considers it necessary to prevent or stop any damage of a serious or irremediable nature including a breach of the Agreement, then nothing in this Dispute Resolution Clause will operate to stop it immediately applying to the appropriate court for an injunction or Court Order restraining the other party from breaching or continuing to breach this Supplementary Agreement.

4. A perusal of the aforesaid clause goes to indicate that even though arbitral proceedings are contemplated to be held at Kolkata, but then prior to resorting to such proceedings, it has been agreed between the parties to settle the dispute by negotiation and it is only when the dispute cannot be resolved by the parties within thirty (30) days, that the same can be referred to and settled by an arbitrator in arbitration proceedings.

5. In the instant case, the respondents appear to have unilaterally and without resorting to negotiation to settle the dispute, appointed a sole arbitrator, as is evident from the communication dated 10.07.2023 (P-12). The relevant portion whereof reads as under:-

“As per Article 26 of the Franchise agreement and Article V (v) of the Supplementary Agreement, it was expressly agreed between the parties that in case any difference or dispute arising between the parties on account of any of the terms and conditions contained in the said agreement, such difference or dispute shall be referred to the learned Arbitrator as per the provisions of the

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Arbitration and Conciliation Act, 1996 and the venue for holding such proceedings shall be Kolkata. In furtherance of the same, we have referred the matter to the Sole Arbitrator Mr. Pranab Kr. Chattopadhyay, former Judge, High Court of Calcutta, to arbitrate the dispute that arose between us and to pass an award accordingly. Our company shall await your response in for a period of 30 days failing which we shall proceed in accordance with law.

6. As observed above, the arbitral proceedings could have been resorted to only after the settlement by way of negotiation had failed. It was, thus, incumbent upon the parties to have resorted to negotiation and without which none of the parties could have unilaterally or bilaterally appointed the arbitrator, since the supplementary agreement was a tripartite agreement entered between the petitioner and the respondents No. 1 and 2.

7. Accordingly, in the given facts and circumstances, respondent No. 1 is restrained from acting in furtherance of the arbitration reference Notice dated 10.07.2023 and the proceedings, if any, initiated by the sole Arbitrator Mr. Pranab Kr. Chattopadhyay, former Judge, High Court at Calcutta, are ordered to be stayed.

OMP No. _____ of 2023

Be registered.

Allowed as prayed for. The documents accompanying the application are ordered to be taken on record and shall be read as part and parcel of the main petition and while supplying the copy(ies) of the petition be served upon the

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respondents, the petitioner shall ensure that the copy of these documents are also supplied.

Application stands disposed of.

(Tarlok Singh Chauhan)
Judge

4th August, 2023
(Sanjeev)

High Court of H.P.