

---

The petitioner should have posed the questions of law now raised in this petition before the Commission itself. From the peculiar facts and circumstances of this case, it is clear that the petitioner has made it an issue not to submit to the jurisdiction of the Commission. A perusal of Section 13 already reproduced above shows that the Commission has conducted the proceedings strictly in accordance with law. The impugned orders passed by the Commission are legally sound and well within its jurisdiction. Any sweeping direction as sought for by the petitioner in the writ petition would cripple the functioning of the Commission altogether and no such mandate can be issued by this Court because in that eventuality no respondent would appear before the Commission.

(13) In view of above discussion, it is held that the Commission has a right and jurisdiction to call for personal affidavit of Police Officers against whom a complaint regarding infringement of human rights has been filed and it has rightly taken cognizance on the complaint of respondent No. 3. Both the questions are answered accordingly.

(14) For the reasons stated above, the petition filed by the petitioner is dismissed with no orders as to costs.

---

**R.N.R.**

*Before S.S. Sudhalkar, J.*

PARAMPAL SINGH & OTHERS,—*Appellants.*

*versus*

PUNJAB STATE WARE HOUSING CORPORATION & OTHERS,—  
*Respondents.*

F.A.O. 2388 of 1998

5th August, 1999

*Arbitration and Conciliation Act, 1996—S. 8 (2)—Copy of arbitration agreement already produced on record by the appellants—Respondents filed application under section 8 of the Arbitration Act for referring matter to the Arbitrator without producing the arbitration agreement—Matter referred to arbitrator—Challenge thereto on the grounds of non-compliance of S. 8 (2)—Order not liable to be set aside on technical grounds as copy of agreement already on the record.*

*Held*, that the provision of sub-section (2) of Section 8 of the Arbitration and Conciliation Act, 1996 that the copy of the arbitration agreement or duly certified copy thereof should be produced along with

the application for referring the matter to the Arbitrator cannot be interpreted to mean that if the copy of the same was produced earlier though by the other party, the application should be dismissed. Take for instance, a case where such a copy of the arbitration agreement is produced earlier and the application to refer the matter to the Arbitrator has been filed later on, by the same party *viz.* the defendant, then it cannot be said that the provision of sub-section (2) of Section 8 of the 1996 Act was not complied with. This because the copy of the arbitration agreement was already produced on record by the defendant in the given case. Similarly, in this case also a copy of the arbitration agreement Ex. P1 has been produced on record by the plaintiffs themselves and the application for referring the matter to the Arbitrator was filed by respondent-defendant. This being the position the appellants cannot be allowed to raise this technical plea of non-compliance of provision of sub-section (2) of section 8 of the 1996 Act.

(Para 3)

Sarjit Singh, Sr. Advocate with Jagder Singh, Advocate,—*for the Appellants.*

N.S. Boparai, Advocate,—*for the Respondents.*

### ORDER

*S.S. Sudhalkar, J. (Oral)*

(1) By the impugned order, learned Additional Civil Judge (Senior Division), Phul, stayed the suit filed by the appellants and the matter was ordered to be referred to the Arbitrator for adjudication. Being dissatisfied with the order, this appeal has been filed.

(2) The first contention of the learned counsel for the appellants is that the certified copy of the Arbitration Agreement was not produced by the respondents alongwith the application for referring the matter to the Arbitrator. It is the contention of both the learned counsel for the parties that the provisions of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 1996 Act) apply to the present case. Section 8 of the 1996 Act reads as under :

“8. *Power to refer parties to arbitration where there is an arbitration agreement* .—(1) A judicial authority before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so applies not later than

---

when submitting his first statement on the substance of the dispute, refer the parties to arbitration.

- (2) The application referred to in sub-section (1) shall not be entertained unless it is accompanied by the original arbitration agreement or a duly certified copy thereof.
- (3) Notwithstanding that an application has been made under sub-section (1) and that the issue is pending before the judicial authority, an arbitration may be commenced or continued and an arbitral award made.”

(3) Learned counsel for the appellants has stated that 2/3 dates were taken for filing written statement and then an application for referring the case to the Arbitrator was given. The first contention of learned counsel for the appellants, as mentioned above, is that because the application of the respondents for referring the matter to the Arbitrator was not accompanied by original arbitration agreement or duly certified copy thereof, the same should not have been entertained. As against this learned counsel for the respondents has pointed out that a copy of the very agreement has been produced by the appellants themselves alongwith the plaint and that is at Ex. P1 on the record. This fact is also verified from the record of the trial court. Of course, it is also apparent from the record that though an application for referring the matter to the Arbitrator was given earlier, copy of the agreement was produced by the respondents later on. The question now is whether the impugned order should be set aside holding that it did not comply the provision of sub-section (2) of Section 8 of 1996 Act. The provision of the 1996 Act that the copy of the Arbitration agreement or duly certified copy thereof should be produced along with the application for referring the matter to the Arbitrator cannot be interpreted to mean that if the copy of the same was produced earlier though by the other party, the application should be dismissed. Take for instance, a case where such a copy of the arbitration agreement is produced earlier and the application to refer the matter to the Arbitrator has been filed later on, by the same party *viz.* the defendant, then it cannot be said that the provision of sub-section (2) of section 8 of the 1996 Act was not complied with. This is because the copy of the arbitration agreement was already produced on record by the defendant in the given case. Similarly, in this case also a copy of the arbitration agreement Ex. P1 has been produced on record by the plaintiffs themselves and the application for referring the matter to the Arbitrator was filed by respondent-defendant. This being the position the appellants cannot

---

be allowed to raise this technical plea of non-compliance of provision of sub-section (2) of Section 8 of the 1996 Act.

(4) At this stage of dictation, learned counsel for the appellants does not press for other contentions raised by him. In view of the above, this appeal is without merit and deserves to be dismissed.

(5) In the result, this appeal is dismissed.

---

**J.S.T.**

*Before V.K. Bali & M.L. Singhal, JJ*

VIVEK SARIN,—Appellant

*versus*

MULTI METAL UDYOG,—Respondent

C.A.C.P. 3 of 1998

3rd November, 1998

*Contempt of Courts Act, 1971—S. 12—Contemner had in winding up proceedings under Sections 433 & 434 of the Companies Act agreed to pay debt in instalments—Further agreed that in case of even one default in payment contempt proceedings could be initiated against him—Default occurred—Contempt proceedings initiated and appellant held guilty of contempt and also directed to deposit amount—Challenge to the order directing appellant to deposit money being without jurisdiction—Order under challenge stayed—Stay order modified upholding order to make payment.*

*Held*, that principle of law by now that with a view to ensure full justice between the parties that wherein an act is done in violation of the order, it is the duty of the Court to set the wrong right and not allow the perpetuation of the wrong. In the present case, while giving an undertaking to the Court to pay an amount of rupees ten lacs in instalments the appellant had further stated that if default was made, he could be hauled up for contempt. The learned single Judge, rightly ordered the appellant to pay the defaulted amount. Such a direction was required to be given in this case. By no legitimate means it could at all be argued by Mr. Sahni that there was any justification in withholding of payment of defaulted amount by the appellant. We may mention here that in case the directions referred to as passed by the learned single Judge are stayed, it would virtually amount to even