

ITEM NO.62

COURT NO.10

SECTION XV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 17243/2009

(Arising out of impugned final judgment and order dated 16/05/2008 in SBARA No. 59/2007 passed by the High Court Of Rajasthan At Jaipur)

SUNIL JAIN (D) THR. LRS. &amp; ORS

Petitioner(s)

VERSUS

CHANDRA KALA & ANR.  
(with interim relief and office report)  
(For final disposal)

Respondent(s)

Date : 24/10/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH  
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. Vishwendra Verma, Adv.  
Ms. Shivali, Adv.  
Mr. Pranav, Adv.  
Mr. Yogesh, Adv.  
Ms. Subhavana, Adv.  
Mr. K. S. Rana, Adv.

For Respondent(s) Mr. Vipin Gogia, Adv.  
Ms. Jaspreet Gogia, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed to the extent indicated in the signed order.

(NEELAM GULATI)  
COURT MASTER

(MADHU NARULA)  
COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 10314 OF 2016  
(Arising out of SLP(C) NO. 17243 of 2009)

SUNIL JAIN (D) THR. LRS. & ORS

Petitioner(s)

VERSUS

CHANDRA KALA & ANR.

Respondent(s)

O R D E R

Heard the parties.

Leave granted.

On going through the order under challenge dated 16<sup>th</sup> May, 2008 passed by the High Court of Judicature for Rajasthan at Janpur Bench, Jaipur in Arbitration Application No. 59 of 2007, we have no hesitation in setting aside that Order on account of mistake apparent on the face of the Order in applying the provisions of Section 8 of the Arbitration and Conciliation Act, 1996 (in short 'the Act') to a proceeding under Section 11 of the Act. The Order is accordingly set aside.

Instead of relegating the parties back to the High Court only for seeking appointment of an arbitrator under Section 11 of the Act, we decided to appoint a suitable retired Judge of the High Court of Punjab and Haryana at Chandigarh as arbitrator and hence we granted time to both

the counsel to suggest the name of retired judges who could act as arbitrator. Out of four names suggested, we are informed that Justice S.K. Mittal and Justice Amarjeet Choudhary have settled at Chandigarh and are presently residing there. Hence in our view, it will be convenient to have one of them appointed as arbitrator to decide the dispute between the parties in accordance with law through arbitration at Chandigarh. We appoint Justice S.K. Mittal, who is said to have retired recently, for that purpose. The fees of the arbitrator shall be settled by the arbitrator himself and shall be borne by the parties in equal proportion. The parties should appear before the arbitrator with relevant materials on 1<sup>st</sup> December, 2016 on or about 10.30 AM. The address of Justice S.K. Mittal as furnished by the counsel for the respondent- Mr. Vipin Gogia, is as follows:

"Hon'ble Mr. Justice S.K. Mittal (Retd.)  
1545, Sector 7,  
CHANDIGARH.  
(M. 09780008107)"

The appeal is allowed to the aforesaid extent.

No order as to costs.

.....J  
(SHIVA KIRTI SINGH)

.....J  
(R. BANUMATHI)

NEW DELHI  
October 24, 2016