

**RV SOLUTIONS PVT. LTD. V. AJAY KUMAR DIXIT AND OTHERS 2019
SCC ONLINE DEL 6531**

Delhi High Court; single-judge bench, Jayant Nath J; decided on 15 January 2019

Referring third parties to an arbitration

The plaintiff R V Solutions had brought a suit against its former employees and another company those employees had joined. One of the employees was now the Chief Executive Officer of the other company.

The suit was founded on the allegation that four defendants were employed by the plaintiff at different points of time and were working at senior managerial positions. But they colluded and breached their agreements causing damages, misused private and confidential information to solicit clients, vendors, and staff of the plaintiff.

There was an arbitration clause in the employment agreement of three defendants. Each of them filed an application under Section 8 of the ACA to refer the dispute to arbitration.

There was one defendant, a former employee whose contract had no arbitration clause. There was no agreement with another defendant. These two defendants said they had no objection if the matter was referred to arbitration.

The plaintiff itself objected relying on *Sukanya Holdings Pvt. Ltd. v. Jayesh H. Pandya*, (2003) 5 SCC 531.

The court first reproduced several passages from three cases were *Ameet Lalchand Shah & Ors. v. Rishabh Enterprises & Ors.*, 2018 SCC Online SC 487, *Cheran Properties Limited v. Kasturi & Sons Limited and Ors.*, 2018 SCC Online SC 431 and *Chloro Controls India Private Limited v. Severn Trent Water Purification Inc. & Ors.*, (2013) 1 SCC 641.

It then again referring to *Cheran* observed that— as held by the Supreme Court in that case, the existence of a relationship between the parties, the commonality of the subject matter and whether the agreement between the parties is a part of a composite transaction have to be seen.

The court then found that there was “clearly commonality of facts which bind the defendants together.” Further, it was the plaintiff’s argument “that the defendants have in collusion with each other in a mala fide, and unlawful manner acted to cause loss and damages to the plaintiff.” Noting that the defendant were former employees of the plaintiff, who had allegedly together caused loss to the plaintiff, the court held it is “manifest that there is commonality of parties, commonalities of interest which would warrant that the matter be referred to arbitration.”