

The mere existence of an arbitration clause is not sufficient to reject the plaint under Order VII Rule 11 CPC

The Delhi High Court in the case of **Din Dayal Agarwal HUF vs. Capriso Finance Ltd.** [CM(M) 2008/2024 & CM APPL. 12962/2024] dated June 25, 2025, has held that if a proper application is filed under Section 8 of the Arbitration and Conciliation Act, 1996, the Court must refer the parties to arbitration and may reject the plaint under Order VII Rule 11(d) of the Civil Procedure Code, 1908 (CPC) as barred by law. However, if no such application is filed and no prayer is made for reference to arbitration, the mere existence of an arbitration clause is not sufficient to reject the plaint under Order VII Rule 11 CPC.

The High Court noted that the Supreme Court in *Booz Allen and Hamilton Inc. v. SBI Home Finance Ltd.* [2011 5 SCC 532] has laid down a five-factor test for courts to determine whether to refer parties to arbitration under Section 8 of the Arbitration Act. These include confirming the existence of a valid arbitration agreement, whether all parties to the suit are parties to the agreement, if the disputes fall within the agreement's scope, and whether the application under Section 8 was made before the first statement on the substance of the dispute. Section 8 mandates referral to arbitration unless the court finds no valid agreement exists.

The Court observed that in the present case, since the petitioner did not file an application under Section 8 of the Arbitration Act, but only invoked Order VII Rule 11 CPC, citing the arbitration clause, the court must independently assess whether the plaint discloses a cause of action or is barred by any law. Merely pointing to the existence of an arbitration clause, without invoking the statutory remedy under Section 8, is insufficient to seek dismissal of the plaint on grounds of lack of jurisdiction. Thus, since the petitioner did not invoke Section 8 of the Arbitration Act in the prescribed manner, i.e., by filing an application with the original or certified copy of the arbitration agreement, the mere reliance on the arbitration clause within an application under Order VII Rule 11 CPC cannot justify rejection of the plaint.