

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Arb P 16/2022

MS. ALPINE OUTDOOR MEDIA SERVICES ...Petitioner(s)/appellant(s)

Through: Mr. Ajmal Shafi, Advocate vice
Mr. Shahbaz Sikander, Advocate

Vs.

UNION TERRITORY OF J AND K AND ORS ...Respondent(s)

Through: Mr. Rais Ud Din Ganaie, Dy. AG

CORAM:

HON'BLE THE CHIEF JUSTICE

ORDER

02.12.2023

1. Heard learned counsel for the petitioner and also learned counsel for the respondents.
2. The present petition has been filed for appointment of Arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996. It is the plea of the petitioner that the petitioner was awarded a contract for putting up the advertisements on 170 hoardings structures and 700 pole kiosks in various parts of the Srinagar City for a period of two years. According to the petitioner, having awarded the contract, the petitioner also deposited a sum of Rs. 1.30 Crores and, accordingly, the petitioner had started inviting potential customers for advertising their products in and around Srinagar. Unfortunately, because of the removal of certain 400 pole kiosks in areas of Sanat Nagar, Parraypora, Rajbagh, Hyderpora, Civil Secretariat to Batmaloo, the petitioner could not execute the contract properly which also caused loss to him. Accordingly, the petitioner issued a notice on 14.02.2020 requesting the respondents to remove the hindrances and obstructions in the smooth execution of the contract. However, as the respondents failed to remove the

hindrances for smooth execution of the contract, the petitioner vide notice dated 05.04.2021 invoked the arbitration clause provided in the agreement.

3. It has been submitted that clause No. 24 of the contract provides for resolution of dispute by way of arbitration. The said clause reads as follows:

24. Arbitration, Resolution of Disputes:

“For resolution of all disputes, differences, the matters shall be referred to Director Local bodies, Kashmir for Arbitration whose decision shall be final and binding upon the parties. The provisions of Arbitration Act, 1940 shall apply to such arbitration. However, in case the dispute remains unsettled, the courts at Srinagar shall have the jurisdiction to adjudicate upon the disputes.”

4. This petition, however, has been contended by the learned counsel for the respondents contending, *inter alia*, that there is no dispute at all between the parties and the matter has been settled amicably which fact, however, has been denied by the learned counsel for the petitioner.

5. On perusal of the objections filed by the respondents, this Court has noted that the respondents have not denied the existence of arbitration clause. Further, in view of the assertions made by the petitioner that dispute has arisen, though, denied by the respondents, it indicates that there is divergence of opinion on certain issues which would be required to be examined by the competent forum.

6. Accordingly, this Court proceeds to appoint Mr. M. Y. Akhoon (Former District & Sessions Judge) as the sole arbitrator who shall proceed in the matter to decide the dispute between the parties and make the award in accordance with law, after charging the prescribed fee along with incidental expenses to be shared by the parties. The Ld. Arbitrator shall be duly informed of his appointment. It goes without saying that the parties will be at liberty to raise such preliminary objections as regards maintainability of the arbitration proceedings, which the learned Arbitrator will also decide.

7. With the above observations and direction, the petition is disposed of.

(N. KOTISWAR SINGH)
CHIEF JUSTICE

SRINAGAR
02.12.2023
Aamir

