

Court No. - 46

Case :- ARBITRATION AND CONCILI. APPL.U/S11(4) No. - 31 of 2021

Applicant :- Satish Chandra

Opposite Party :- Nagar Ayukt, Nagar Nigam

Counsel for Applicant :- Hinchh Lal Pandey

Counsel for Opposite Party :- Manoj Kumar Mishra, Abhinava Krishna Srivastava

Hon'ble Ashwani Kumar Mishra, J.

Heard learned counsel for the applicant and Sri Abhinav Krishna, learned counsel for the opposite party.

This application has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of Arbitrator.

A supplementary affidavit has been filed in support of this petition wherein agreement executed between the parties, dated 24.08.2009, is annexed which contains clause 14 as per which decision of Arbitrator would be final. The officer of the local authority cannot act as an Arbitrator in view of section 12(5) of the Act of 1996. The applicant otherwise has raised a claim for reference of dispute to the Arbitrator.

An objection is taken to the prayer for appointment of Arbitrator by the opposite party on the ground that the claim itself is not admissible since signatures have not been appended by the competent authority.

Be that as it may, this Court is not required to examine the claim on merits. Existence of arbitration clause in agreement between the parties as well as raising of claim for appointment of Arbitrator is not disputed.

From the materials that have been placed on record, this Court finds that necessary ingredients to invoke the jurisdiction of this Court under Section 11(6) of the Act of 1996 clearly exist. As the existence of arbitration clause is undisputed and the parties have failed to appoint an arbitrator, as such this petition is liable to succeed and is, accordingly, allowed.

Accordingly, Mr. Justice Allah Raham (Former Judge), resident of Sector Gamma-1, A-20, Greater Noida, Gautam Budh Nagar (U.P.), Mob. Nos.9999011520 and 8601837678 is appointed as an Arbitrator to enter upon the reference and adjudicate the dispute in accordance with provisions of Arbitration and Conciliation Act, 1996, subject to his consent in terms of section 11(6) of the Arbitration and Conciliation Act.

The Arbitrator shall be entitled to fees, in accordance with the provisions of fourth schedule inserted by Act No.3 of 2016. The expenses shall be borne equally by the parties.

Order Date :- 12.10.2023

Ashok Kr.