

Court No. - 46

Case :- ARBITRATION AND CONCILI. APPL.U/S11(4) No. - 142 of 2022

Applicant :- M/S Shri Kaila Devi Fruits

Opposite Party :- Om Prakash Chauhan

Counsel for Applicant :- Vidya Dhar Dubey

Counsel for Opposite Party :- Deepak Kumar Jaiswal, Deepak Kumar Jaiswal

Hon'ble Ashwani Kumar Mishra, J.

This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of Arbitrator on the ground that there exist an arbitration agreement between the parties and since a dispute has arisen, the applicant has sent notices calling upon the opposite party to appoint an arbitrator. However, no arbitrator could be appointed with the consent of the parties.

Sri Deepak Kumar Jaiswal has entered appearance on behalf of opposite party and states that in fact there exist no dispute between the parties and the prayer for appointment of arbitrator is misconceived. Existence of arbitration clause between the parties is not in issue. Perusal of annexure 4 would indicate that a dispute has arisen between the parties in respect of running of cold storage since the applicant claims various reliefs against the opposite party including various goods which have been unauthorizedly kept by the opposite party. Whether or not such dispute has arisen between the parties is an aspect to be examined by the arbitrator and not by this Court while considering the application under Section 11 of the Act.

In the facts of the case, necessary ingredients to invoke jurisdiction of this Court under Section 11 of the Act is clearly shown to exist.

In that view of the matter, this petition for appointment of Arbitrator is liable to succeed.

Let Mr. Rajvir Singh (Retired District Judge), R/o 67, Lajpat Kunj, Agra, U.P., Mobile No.9410204645, be 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(8) of the Arbitration and Conciliation Act.

The Registry is directed to obtain consent of the proposed learned Arbitrator, in terms of Section 11(8) of the Act, within four weeks.

List after four weeks.

Order Date :- 17.11.2023

RA