

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Arb. Case No. 176 of 2014

Date of Decision: 7.1.2015

Pankaj Gupta

...Petitioner

versus

Ireo Waterfront Pvt. Ltd.

...Respondent

CORAM: - HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE

Present: - Mr. Namit Gautam, Advocate for the petitioner.

Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Shekhar Verma, Advocate for respondent.

...

S.J.VAZIFDAR A.C.J.(Oral)

1. The parties entered into a contract which contains the following arbitration clause: -

"33. Dispute Resolution by Arbitration

All or any disputes arising out of or touching upon or in relation to the terms of this Agreement or its termination including the interpretation and validity of the terms hereof and the respective rights and obligations of the parties shall be settled amicably by mutual discussions failing which the same shall be settled through reference to a sole Arbitrator to be appointed by a resolution of the Board of Directors of the Company, whose decision shall be final and binding upon the parties. The Allottee hereby confirms that it shall have no objection to the appointment of such sole Arbitrator even if the person so appointed, is an employee or advocate of the Company or is otherwise connected to the Company and the Allottee hereby accepts and agrees that this alone shall not constitute a ground for challenge to the independence or impartiality of the said sole Arbitrator to conduct the arbitration. The arbitration shall be governed by the Arbitration and Conciliation Act, 1996 or any statutory amendments/modifications thereto and shall be held at the Company's offices or at a location designated by the said sole Arbitrator in Ludhiana. The language of the arbitration proceedings and the Award shall be English. Both the Parties will share the fees of the Arbitrator in equal proportion."

2. Pursuant to the said clause, respondents have already appointed an arbitrator who is a former Additional District and Sessions Judge. The petitioner vide letter dated 18.10.2014 (Annexure P-6) informed the arbitrator that he has no faith in him for the reasons stated therein. The arbitrator, however, stated that the apprehensions were unfounded and he further stated that he was not acting as an arbitrator in any other case of the respondents. The arbitrator, accordingly, called upon the petitioner to file its claim on 1.11.2014. The petitioner seeks the removal of the said arbitrator and appointment of any other arbitrator. Such an application does not fall within the scope of Section 11 of the Arbitration and Conciliation Act, 1996 (for short the 'Act').

3. In view of the said fact, the present petition is hereby dismissed. It is, however, clarified that the merits of the petitioner's contention regarding bias or possible bias is kept open. Considering the view that I have taken, I did not grant respondents any opportunity to file an affidavit in reply.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

7.1.2015
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