

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ARB No.111 of 2016

Date of decision: 07.04.2017

Shapoorji Pallonji & Company Pvt. Ltd.

....Petitioner

Vs.

Golden Peacock Residence Pvt. Ltd.

.....Respondent

Present: Mr. Vikas Bahl, Senior Advocate with
Mr. Amandeep Singh, Advocate,
Mr. Babit Singh, Advocate and
Mr. Charanpreet Singh, Advocate for the petitioner.

Mr. Amit Jain, Advocate for the respondent.

S.S.SARON,J.

The application has been filed by Shapoorji Pallonji & Company Pvt. Ltd. under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of Presiding Arbitrator to adjudicate the disputes/differences that have arisen between the parties as an outcome of the construction contract agreement dated 30.10.2013 (Annexure P-4) entered into between them.

Clause 20 of the Work Order Agreement dated 21.8.2013 (Annexure P4) relates to 'settlement of disputes and arbitration'.

The same reads as under:-

"20. Settlement of Disputes and Arbitration:

- (a) All disputes or differences of any kind whatsoever arising between Developer and the Contractor in connection with or arising out of the work order/contract of carrying out of the work (whether during the carrying out

of the work or after their completion and whether before or after the termination, abandonment or breach of the contract) shall be resolved by mutual discussions between the Developer and Contractor within 15 (fifteen) days of the said dispute arising, failing which, such disputes shall be settled through arbitration in terms of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactments thereof.

- (b) The arbitration tribunal shall consist of three (3) arbitrators. The Developer shall appoint one (1) arbitrator and the Contractor shall appoint one (1) arbitrator. The two (2) arbitrators thus appointed shall appoint the third (3rd) arbitrator who shall be the presiding arbitrator. In the event the two arbitrators (one each) so appointed by the Developer and the Contractor respectively are unable to agree on the name of the presiding arbitrator, the presiding arbitrator shall be appointed under the rules of the Arbitration and Conciliation Act, 1996.
- (c) Interim Arbitration Award shall be binding on both parties.
- (d) The venue for arbitration shall be at Gurgaon and the language of the arbitration

proceedings shall be English. The parties shall bear and pay their respective costs, charges and expenses of the arbitration proceedings.”

According to the learned Senior Counsel appearing for the petitioner, mutual discussions between the parties have already been held. It is further mentioned that the respondent Golden Peacock Residence Private Limited who is the ‘Developer’ has vide letter dated 27.1.2016 (Annexure P9) appointed its arbitrator namely Sh. Satish Ahlawat, Additional District and Sessions Judge (Retd.). The petitioner who is the ‘Contractor’ has also appointed Mr. Justice (Retd.) Anil Kumar as its arbitrator. This, it is submitted, is the admitted position between the parties. The presiding arbitrator is to be appointed by mutual discussions and in case it is not done, it is to be appointed by the Court.

After discussion and deliberations, the parties have jointly suggested that Mr. Justice (Retd.) Rajive Bhalla be appointed as their arbitrator.

With the consent of the parties, Mr. Justice (Retd.) Rajive Bhalla is appointed as such. He will be paid his remuneration as per practice and law.

The application stands disposed of.

(S.S. SARON)
JUDGE

07.04.2017
A.Kaundal

Note:

- | | |
|--|------|
| 1. Whether the order is speaking/reasoned: | Yes |
| 2. Whether the order is reprobable | : No |