

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

ARB-231-2016 (O&M)

Date of decision:- 28.07.2017

M/s Satnam Agri Products Ltd.

...Petitioner

Versus

M/s Shahi Agromatics Pvt. Ltd.

...Respondent

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

Present:- Mr. Arun Gupta, Advocate,
for the petitioner.

Mr. D.K. Bhatti, Advocate,
for the respondent.

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S.J. VAZIFDAR, C.J. (ORAL)

This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 for the appointment of an arbitrator.

2. The parties had entered into a lease agreement dated 29.12.2015 clause 15 whereof reads as under:-

"15. This agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of India and subject to arbitration above, the courts in Jalandhar or Noida shall have exclusive jurisdiction over the disputes arising out of this Agreement."

(emphasis supplied)

3. Disputes and differences having arisen between the parties the petitioner invoked the arbitration clause.

The dispute whether the petitioner prevented the respondent from effectively enjoying the benefit of the

agreement or not falls within the jurisdiction of the arbitrator. Similarly, the dispute whether the petitioner's conduct prevented the respondent from availing financial facilities and, therefore, caused damage to the respondent also falls within the ambit of the arbitration agreement.

4. The main contention is whether clause 15 contains an arbitration agreement at all. The respondent contends that clause 15 contemplated an earlier clause containing an arbitration agreement, but that there is none. The respondent, therefore, contends that clause 15 does not contain an arbitration agreement.

5. It is true that other than clause 15 there is no term that relates to arbitration. Clause 15 indeed is not well worded. It could have been clearer. It, however, is an arbitration agreement. There is no other explanation for the use of the words "subject to arbitration". It is not the respondent's case that the parties had contemplated entering into an arbitration agreement subsequently or separately. The word "above" in clause 15 refers to the disputes or claims in respect of the agreement itself. The agreement and the dispute or claim is referred to in the opening part of the clause itself. It is apparent, therefore, that the words "subject to arbitration above" constitute an arbitration agreement. The rest of the clause pertains to the conferment of jurisdiction upon the Courts in Jalandhar or Noida subject, however, to arbitration in respect of the agreement and any dispute or claim arising out of or in connection with it.

6. The petition is, therefore, disposed of by appointing Mrs. Justice Sneh Prashar, a former Judge of this Court, as the sole arbitrator. The fees shall be as per the Chandigarh

Fees) Rules, 2014. The parties have agreed that the venue shall be the Chandigarh Arbitration Centre.

(S.J. VAZIFDAR)
CHIEF JUSTICE

28.07.2017

Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No