

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

**CM-22983-CII-2017 in
FAO-190-2004 (O&M)
Date of decision: 14.03.2019**

M/s Amar Chand Sharma

...Appellant

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Naresh Markanda, Sr. Advocate, with
Ms. Lakshita Sahni, Advocate,
for the applicant-appellant.

Mr. A.K. Bansal, Advocate,
for respondent Nos. 1 to 3.

JAISHREE THAKUR, J. (ORAL)

This is an appeal that has been filed seeking to challenge the order of Additional District Judge, Chandigarh whereby he has declined the application filed by the appellant under Section 9 of the Arbitration and Conciliation Act, 1996.

In brief, the facts are that a dispute arose between the parties and Arbitrator came to be appointed. However, the said Arbitrator namely Sh. Namo Narain submitted his resignation on account of his superannuation by his letter dated 25.07.2002. Thereafter, the appellant herein made request to the contesting respondent No.2 for another appointment in place of Sh. Namo Narain and the said request was received by them. However, since the respondents failed to appoint another

Arbitrator within the specified period of 30 days the appellant herein filed application under Section 11 of the Arbitration and Conciliation Act, 1996 before the Court of Civil Judge to appoint an Arbitrator.

In the meantime, during the pendency of the application respondent herein appointed an Arbitrator which led to the filing of an application under Section 9 of the Arbitration and Conciliation Act, 1996 seeking the stay of the proceedings before the said Arbitrator. It is this application that was declined and has led to the filing of the instant appeal. Both the parties herein are in agreement that in fact an Arbitrator has to be appointed. It appears that the petition filed by the appellant before the Civil Judge, Chandigarh has been misplaced along with the entire record thereto. The application has yet not been decided either by the Civil Judge or by the Chief Justice of this Court. There is no doubt that the dispute has to be settled and in terms of the Agreement an Arbitrator has to be appointed.

Pursuant to the order dated 12.03.2019 wherein both the parties were directed to refer and suggest a name of an appropriate person to be appointed as an Arbitrator, a list has been proposed which does not contain any common name. However, since parties are in agreement that an Arbitrator has to be appointed to settle the dispute between the parties, this Court proposes the name of Hon'ble Mr. Justice, Rajive Bhalla (retired) to act as an Arbitrator. This name is agreeable to both the parties. Let papers be placed before the Arbitrator who would settle his own arbitration fee and give his award within a period of four months from the date of receipt of certified copy of this order.

The parties are directed to put in an appearance before the Arbitrator, so appointed, on 01.04.2019.

Accordingly, the matter stands disposed of.

14.03.2019

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes.

No.