

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ARB-44-2021 (O&M)

Date of Decision: 12.05.2021

M/s ABW-Suncity

... Petitioner

VS.

Mr. Kimiti Lal Jain & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Aman Chaudhary, Advocate for the petitioner

Mr. Kuldeep Kumar Kohli, Advocate and
Mr. Arun Singla, Advocate for the respondents

Mr. Sumesh Malhotra, Advocate
for the respondents (ARB-40 & 66-2021)

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of restrictions due to outbreak of COVID-19 pandemic.

This petition has been filed by petitioner M/s ABW-Suncity under Section 11(6) of the Arbitration and Conciliation Act, 1996 (as amended), *inter alia*, praying for appointment of Sole Arbitrator under the agreement dated 22.09.2012.

This Court, vide detailed and separate order of even date passed in **RA-CR-25-2021 in ARB-52-2021 and ARB-52-2021 (M/s ABW Suncity vs. Tarun Malik & Ors.)** has disposed of the review application filed by the review-applicant/respondents and aforementioned arbitration case. The operative part of the above order is as under:-

“.....This Court thus deems it appropriate to refer the matter to the Sole Arbitrator who may examine the pleas raised by the parties inter alia regarding the existence of an arbitration agreement and also the contrary pleas e.g. reference of para 36 of the conveyance deed and the connected issues. It is made clear that nothing observed in the foregoing

paras above shall be construed to be any findings of this Court on any issue. The Arbitrator may proceed to decide the issue de hors the prima facie observations made above. It is also made clear that this Court has given common orders in connected case as mentioned in the foregoing paras, but the Arbitrator may take up each case as independent case and hear/deal with the dispute raised by each of the party, independently.

*After hearing learned counsel for the parties, Justice Dr. Bharat Bhushan Parsoon (Retd.), a former Judge of this Court, is appointed as the Sole Arbitrator. However, such appointment would be subject to the declaration to be made by Justice Dr. Bharat Bhushan Parsoon, under Section 12 of the Act; with regard to his independence and impartiality to settle the disputes between the parties. The Arbitrator is requested to examine the objection/dispute raised by the parties and decide the same in accordance with law especially in view of the observations of the Hon'ble Supreme Court in **Pravin Electricals Pvt. Ltd.** (supra).*

The Arbitrator is requested to complete the proceedings within the time limit specified under Section 29A of the Act.

The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended or as may be mutually settled by the parties and the Arbitrator.

A copy of the order be forwarded to Justice Dr. Bharat Bhushan Parsoon at the given address:-

154, Sector 35A

Chandigarh

M. No.8558809906

Landline No.0172-4666606

After seeking the convenience of the Arbitrator, the parties are directed to appear before him (through video conferencing, if suitable) within one month from the date of receipt of a certified copy of this order.

Accordingly, all the arbitration cases along with miscellaneous applications along with review applications are disposed of in the above terms.”

In view of the observations and above-reproduced directions issued in **RA-CR-25-2021 in ARB-52-2021 and ARB-52-2021 (M/s ABW Suncity vs. Tarun Malik & Ors.)**, this arbitration petition stands disposed of in same terms.

12.05.2021

Shruti

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No

(Girish Agnihotri)
Judge