

(Heard through Video Conferencing)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-452 of 2021 (O&M)

DATE OF DECISION: 26.03.2021

Rakesh Kumar

...Petitioner

Versus

State of Haryana&Ors.

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Argued by :Mr. R.K. Gupta, Advocate
For the petitioner.

Mr. Manoj Kumar Taya, AAG Haryana.

ARUN MONGA, J.(ORAL)

1. Petitioner herein assails an order dated 26.10.2020 passed by learned Additional Civil Judge(Sr. Divn.), Kalka, by virtue of which an application under section 8 of Arbitration and Conciliation Act, 1996 filed by respondents herein, objecting to the maintainability of the civil suit filed by the petitioner, has been allowed.

2. Prayer in the application under section 8, ibid was as below :-

“It is, therefore, prayed that in view of the facts and circumstances explained above and also in the interest of justice, the present application may kindly be allowed and the matter may kindly be referred to the Arbitrator to be appointed by both the parties as per Clause 36 of the Agreement containing Terms and Conditions of Auction of Shops/ Sites, in the interest of justice, equity and fair play.”

3. After rival arguments were addressed for sometime, on the suggestion of the Court, both the counsel are agreeable that let dispute between the

parties be referred for the arbitration. Learned counsel for the petitioner submits that, had an arbitrator been appointed in terms of order dated 26.10.2020 passed by the Court below, the instant proceedings would not have resulted.

3. Learned counsel for petitioner and learned State counsel, under instructions of Mr. Anil Kumar, Tourist Officer, are *ad idem* that both the parties shall be relying only on documentary evidence. In the premise, they agree that parties would file their affidavits along with relevant documentary evidence, in support of their respective claims and none of the parties shall cross-examine either of the deponents, who would file the affidavits.

4. Accordingly, with consent, the matter is referred to the sole arbitration of Mr. B.M. Bedi, District & Sessions Judge(Retired), staying at Panchkula. It is made clear that all disputes between the parties raised either in the civil suit or in these proceedings are left open to be decided by the learned Arbitrator. Learned Arbitrator shall proceed with the arbitration only on the basis of documentary evidence adduced by the parties.

5. It is also left open to the learned Arbitrator to determine his fees in accordance with the applicable prescribed fee schedule. Both the parties shall share the costs of arbitration proceedings equally, including the fee of learned Arbitrator.

6. Registry is directed to dispatch a soft copy of this order through email to learned Arbitrator as well as a hard copy thereof.

7. The learned Arbitrator may decide the venue of the Arbitral Tribunal as per his convenience subject to the parties agreeing to the same or per the agreement entered between the parties and issue notice to the parties

to appear before him accordingly. Given the current pandemic scenario, learned Arbitrator is also at liberty to conduct the virtual proceedings through video conferencing. It would be appreciated if learned Arbitrator decides the case as expeditiously as possible preferably within a period of three months from the date of approaching the parties to him along with web prints of this order.

8. Revision petition and pending application(s), if any stand disposed of.

26.03.2021
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(ARUN MONGA)
JUDGE

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