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

**ARB No.138 of 2017 (O&M)
Date of Decision: 21.10.2022**

CHANDIGARH ADMINISTRATION, ELECTRICITY
DEPARTMENT THROUGH ITS EXECUTIVE ENGINEER,
.....Petitioner

Versus

SH. RAM NATH KOHLI

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Ashish Rawal, Advocate,
for the petitioner.

Mr. Rohit Dheer, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has preferred this petition under Section 11(4) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator.

[2]. Petitioner has attached photocopy of alleged agreement as Annexure A-1, to which the objection has been raised as regards the valid execution of the agreement. Petitioner has not attached the original copy of the agreement in question, nor has supplied any certified copy thereof.

[3]. In para Nos.6 and 7 of the written statement filed by the respondent, following pleadings have been made:-

6. *That the applicant has not come to the court with clean hands as the applicant has suppressed and concealed the factum of another claim petition dated 16.3.2016, filed by the applicant under Section 23 of the Arbitration and Conciliation Act, 1996 before the arbitrator-cum-Superintending Engineer, Electricity Operation Circle, U.T., Chandigarh.*

7. *That therefore, it is safe to submit that earlier the applicant has already filed two claim petitions besides this third arbitration case before this Hon'ble High Court i.e. the first application under the Arbitration and Conciliation Act, 1996 has been filed on 25.6.2014, which has been titled as "Assistant Executive Engineer, Electricity 'OP' S/Division No.2, Sector 10 Chandigarh Vs. Sh. Ram Nath Kohli, H.No.2165, Phase-III, Bapu Dham, Madrasi Colony, Sector 26 Chandigarh". Whereas, without withdrawing or amending the petition dated 25.6.2014, the applicant filed another claim application under Section 23 of the Arbitration and Conciliation Act, 1996 titled as "Executive Engineer Electricity "OP" Division No.1, Sector 17, Chandigarh Vs. Sh. Ram Nath Kohli, H.NO.26, Shivalik Vihar-II, Naya Gaon, Mohali, Punjab presently residing at H.No.246, Sector 11, Panchkula.*

It is pertinent to mention here that in the second claim petition dated 16.3.2016, the applicant has entirely changed the pleadings of the case including the Memorandum of Parties without any justification, reason or basis, with a mala-fide intention,

which is not permissible in the eyes of law, And, now, without any valid sanction of the law, the applicant has filed this third Arbitration case before this Hon'ble High Court.

[4]. Perusal of para Nos.6 and 7 of the written statement would show that the petitioner has suppressed and concealed the factum of another claim petition dated 16.03.2016 filed under Section 23 of the Arbitration and Conciliation Act, 1996 before the Arbitrator-cum-Superintending Engineer, Electricity Operation Circle, U.T., Chandigarh. Earlier two claim petitions besides third arbitration case were filed i.e. the first claim petition filed on 25.06.2014 and without withdrawing and amending the petition, the petitioner filed another claim petition under Section 23 of the Arbitration and Conciliation Act, 1996.

[5]. Admittedly, no replication has been filed to the objection raised by the respondent.

[6]. In view of stand taken by the respondent, this petition is found to be totally bereft of merits and is accordingly dismissed.

21.10.2022

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No