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

**ARB No.188 of 2018 (O&M)
Date of Decision: 10.11.2022**

SERVOTECH ELECTRICALS PVT LTD

.....Petitioner

Vs

M/S IMPERIAL HOUSING VENTURES PVT LTD

.....Respondent

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

Present: Mr. Deepak Jain, Advocate
for the petitioner.

Mr. A.S. Talwar, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has filed the present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as 'the Act') for appointment of an independent Arbitrator to constitute the Arbitral Tribunal for adjudication of the dispute between the parties.

[2]. It is not in dispute that the sole Arbitrator Mr. B.M. Bajaj, District and Sessions Judge (Retd.) was appointed in terms of clause 52.3 of the contract agreement for Paras Tiera project.

[3]. The grievance of the petitioner is that despite number of communications addressed to the Arbitrator, the Arbitrator has failed to act without undue delay and thus the mandate of the Arbitrator is liable to be terminated on the ground of his failure to act without undue delay.

[4]. The petitioner has not filed petition under Section 13, 14 and 15 of the Arbitration and Conciliation Act, 1996 before the concerned Court. In view of **Swadesh Kumar Agarwal vs. Dinesh Kumar Agarwal and others, 2022 SCC OnLine SC 556**, if the mandate of the Arbitrator is sought to be terminated on the ground that the sole Arbitrator has failed to act without undue delay, then the aggrieved party has to approach the concerned Court, which is defined under Section 2(e) of the Arbitration and Conciliation Act, 1996. The Court means the Principal Civil Court of original jurisdiction in the District having jurisdiction to decide the questions forming subject matter of arbitration if the same had been the subject matter of a suit. This Court is not the Court of original jurisdiction having jurisdiction to decide the question forming the subject matter of the arbitration, if the same is in the form of civil suit.

[5]. In view of aforesaid judgment, the petitioner has to approach the concerned Court defined under Section 2(e) of the Arbitration and Conciliation Act, 1996 i.e. the Principal Civil

Court of original jurisdiction in the District Gurugram.

[6]. Faced with the situation, learned counsel for the petitioner wishes to withdraw this petition with a liberty to approach the concerned Court as defined under Section 2(e) of the Act. In the event of filing any petition under Sections 13, 14 and 15 of the Act, the same shall be decided by the concerned Court at the earliest in accordance with law.

[7]. Dismissed as withdrawn with the liberty aforesaid.

November 10, 2022

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No