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

**ARB No.304 of 2021 (O&M)
Date of Decision: 15.12.2022**

BABITA RANI

.....Petitioner

Vs

M/S GENESIS INFRATECH PVT. LTD.

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Tanmoy Gupta, Advocate
for the petitioner.

None for the respondent.

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has preferred this petition under Section 11 of the Arbitration and Conciliation Act, 1996 for the appointment of an independent Arbitrator to adjudicate upon the dispute arising out of two agreements dated 25.07.2019 between the parties.

[2]. On 25.07.2019, the parties entered into a Memorandum of Understanding vide which the petitioner booked three shops i.e. LGR No.22, 28 and 32 having defined area. The parties also entered into a Memorandum of Understanding vide which the petitioner also purchased shop bearing No.FC-3B Third Floor in Genesis Mall, Bhiwadi with defined area. The petitioner has also parted with an amount of Rs.75,51,800/- inclusive of all taxes

and further an amount of Rs.18,48,200/- qua the Food Court unit towards full and final payment of the purchase of the same.

[3]. Vide the aforesaid MOUs, the respondent had agreed to pay assured rental to the petitioner to the extent of Rs.50/- per sq. ft. per month on the total area of three shops measuring 1238 sq. ft. which comes to Rs.61,900/- per month subject to TDS deduction. In the same manner, the respondent had also agreed to pay assured rental to the petitioner to the extent of Rs.55/- per sq. ft. per month on the total area measuring 307.25 sq. ft. which comes out to Rs.16,890/- per month subject to TDS deduction. Since March, 2020, the respondent has failed to make any payment towards the assured rental in both the aforesaid transactions.

[4]. Learned counsel for the petitioner submits that as of now the amount has accumulated to the tune of more than Rs.26 lakhs. The petitioner has already invoked the arbitration clause.

[5]. Notice of motion was issued on 04.05.2021. As per office report, service is complete. Vide order dated 27.07.2022, the respondent has already been proceeded against *ex parte*. The pleadings of the petitioner have gone un rebutted.

[6]. As per the case set up by the petitioner, there exists a

bona fide dispute for which the petitioner has already invoked the arbitration clause. Even notice of invocation has not been replied by the respondent.

[7]. In view of nature of controversy involved in this petition and as per arbitration clause, the sole Arbitrator has to be nominated by the Developer. Since the Developer has failed to respond to the notice of invocation, therefore, I deem it appropriate to appoint **Sh. V.K. Maheshwari, Principal Judge, Family Court (Retd.) # 85, Sector 30 Gurugram, Mobile No.9910384671** as the sole Arbitrator, to resolve the dispute/difference between the parties. The appointment of the Arbitrator shall be subject to the declaration to be made by him as required under Section 12 of Arbitration and Conciliation Act, 1996 in respect of his independence and impartiality to settle the dispute between the parties.

[8]. The Arbitrator would complete the proceedings within the specified time in terms of Section 29-A of the said Act. The Arbitrator shall be paid fee in accordance with the IVth Schedule of the Act as amended from time to time. The fee shall be borne by both the parties equally.

[9]. Venue of the Arbitration shall be the place to be disclosed by the Arbitrator according to his convenience.

[10]. A copy of this order be dispatched to the Arbitrator at the following address:-

Sh. V.K. Maheshwari, Principal Judge,Family Court (Retd.)
85, Sector 30 Gurugram, Mobile No.9910384671

[11]. Petition stands disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

December 15, 2022

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No