

252-2

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ARB No.332 of 2021 (O&M)

Date of Decision: 15.12.2022

M/S FABRICATION HOUSE

.....Petitioner

Vs

MUNICIPAL CORPORATION FARIDABAD AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Shruti Mandhotra, Advocate for
Mr. Rohit Rana, Advocate
for the petitioner.

Ms. Purna Malhotra, Advocate and
Mr. Jaskirat Singh, Advocate for
Mr. Prateek Mahajan, Advocate
for the respondents.

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 contract agreement dated 28.04.2017.

[2]. The appointment of the Arbitrator has been sought in terms of the Arbitration Clause No.25A(i) of the Municipal Corporation, Faridabad General Rules and Directions for the Guidance of Contractor.

[3]. During course of arguments, learned counsel for the respondents relies upon judgment of this Court passed in **ARB**

No.127 of 2019 titled **'M/s The Assan Co-op L&C Society, Bahadurgarh, District Jhajjar vs. Haryana Vidyut Prasaran Nigam Ltd., (HVPNL)** decided on 03.11.2021 to contend that for want of deposit of 7½% of the amount claimed, the matter cannot be referred to the Arbitrator in terms of arbitration clause.

[4]. Learned counsel for the petitioner submits that the petitioner is ready and willing to comply with the arbitration clause No.25A(vii). The petitioner undertakes to deposit the requisite security amount within a period of one month.

[5]. The statement made by learned counsel for the petitioner is accepted by learned counsel for the respondents that in case the petitioner deposits the 7½ % of the amount claimed within a period of one month, the matter may be referred to the sole Arbitrator for adjudication of the dispute between the parties.

[6]. In view of statement made by learned counsel for the petitioner and accepted by learned counsel for the respondents, the interest of the respondents/Corporation can very well be protected to the extent that the Arbitrator shall enter upon the reference only when the requisite amount towards security is furnished by the petitioner. The petitioner has tentatively valued its claim to the tune of Rs.15,99,200/- as on the relevant date. In

M/s The Assan Co-op L&C Society, Bahadurgarh, District Jhajjar's case (supra), this Court has harmoniously construed the ratio(s) of **M/s ICOMM Tele Ltd. vs. Punjab State Water Supply & Sewerage Board and Anr., 2019(5) R.C.R. (Civil) 242** and **S.K. Jain vs. State of Haryana, 2009(2) R.C.R. (Civil) 202.**

[7]. During course of arguments, learned counsel for both the parties have agreed on the appointment of Sh. K.C. Sharma, District & Sessions Judge (Retd.) as the sole Arbitrator to adjudicate the dispute between the parties.

[8]. In view of above, I deem it appropriate to appoint Sh. K.C. Sharma, District & Sessions Judge (Retd.) R/o BB-2, Villa-3, Ground Floor, VIP Floors, Sector 81, Faridabad, Haryana, Mobile Nos.8930337700, 7988311414, Email: kcsharma56@yahoo.in 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.

[9]. 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.

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

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

Sh. K.C. Sharma, District & Sessions Judge (Retd.)
R/o BB-2, Villa-3, Ground Floor, VIP Floors,
Sector 81, Faridabad, Haryana,
Mobile Nos.8930337700, 7988311414,
Email: kcsharma56@yahoo.in

[12]. 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