

ARB-216-2020 (O&M)

Date of decision : May 20, 2022

Abhinav Sabharwal

.....Applicant

Versus

Ashok Kumar @ Ashok Kumar Manuja

.....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sehaj Mahajan, Advocate for the applicant.

Mr. Aditya Grover, Advocate for the respondent.

LISA GILL, J.

Prayer in this petition under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (for short – ‘the Act’) is for appointment of sole independent Arbitrator for resolution of disputes and differences between the parties.

Learned counsel for the applicant submits that Civil Revision No. 5938 of 2016 was earlier filed by the applicant challenging order dated 30.03.2016 whereby application under Section 8 of the Act had been disposed of by the learned trial Court dismissing the suit and relegating the parties to avail the remedy of Arbitration. Civil Revision No. 5938 of 2016 was disposed of on 22.01.2019 on the basis of consensus arrived at between the parties. Relevant part of order dated 22.01.2019 reads as under:-

“ During the course of hearing on 21.09.2018, part consensus was arrived at between the parties where it was proposed that the subject matter of both the deeds and Memorandum of

Understanding be referred to Arbitrator without prejudice to the rights of the respondent in a pending criminal revision that has arisen from the order of discharge by the criminal court.

Today learned counsel for both the parties are ad idem that the parties agree to the aforesaid proposal of referring all the pending disputes to the Arbitrator. The allegations of fraud simpliciter shall also be subject matter of adjudication by the Arbitrator in view of law laid down in **A.Ayyasamy vs. A.Paramasivam and others, 2017 (2) RCR (Civil) 518.**

In view of consensus arrived at between the parties, I deem it appropriate to dispose of this revision petition with liberty to the parties to get an Arbitrator appointed in accordance with law. It is made clear that the reference to the Arbitrator shall have no adverse impact on the pending criminal revision filed by the respondent and the same shall be decided in accordance with law.”

Pursuant thereto, petitioner proposed appointment of particular person as a Sole Arbitrator, which was, however, not acceptable to the respondent.

In this view of the matter, present petition was filed for appointment of an independent Arbitrator to adjudicate the dispute between the parties. Learned counsel for the respondent does not dispute the aforesaid factual position.

It is informed by learned counsel that parties have arrived at a consensus for appointment of Mr. Justice Rajiv Narain Raina (Retd.), former Judge, Punjab and Haryana High Court as the Sole Arbitrator to decide the dispute between the parties.

Accordingly, Mr. Justice Rajiv Narain Raina (Retd.), former Judge, Punjab and Haryana High Court, resident of # E-8/3 (GF), DLF Valley, Kalka Pinjore Urban Complex, Sector-3, Panchkula, Haryana, is appointed as the Sole

Arbitrator to resolve the dispute/differences between the parties. Appointment is subject to declaration to be made by the Arbitrator under Section 12 of the Act with regard to him independence and impartiality to settle the disputes between the parties. The Arbitrator to complete the proceedings within the time limit specified under Section 29-A of the Act. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended from time to time.

A copy of this order be dispatched to Mr. Justice Rajiv Narain Raina (Retd.), former Judge, Punjab and Haryana High Court, at the following address:-

E-8/3 (GF), DLF Valley, Kalka Pinjore Urban Complex,
Sector-3, Panchkula, Haryana (134107)
Mob. No.: 7837049207, 9417008086.

Present petition is, accordingly, disposed of.

May 20, 2022
rts

(LISA GILL)
JUDGE

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