

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Arbitration Case No. 152 of 2019 (O&M)

Date of decision: 24th February, 2023

M/s Genetic Buildcon Pvt. Ltd.

Petitioner

Versus

The Ever Well Cooperative Group Housing Society Ltd.

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vijay Sharma, Advocate for the petitioner.
Mr. Pawan Kumar Pahwa, Advocate for the respondent.

AVNEESH JHINGAN, J (Oral):

This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') for appointment of an arbitrator for adjudication of disputes between the parties.

The brief facts are that the petitioner was allotted tender for construction of flats. Clause 5.118 of the general terms and conditions of provided for dispute resolution through arbitration. The said clause also provided as under:

“The fees, if any, of the Arbitrator shall, if required to be paid before the award is made and published, be paid half and half by each of the parties. The costs, of reference and for the award including the fees, if any, of the Arbitrator who may direct to, and by whom and in what manner, such cost or any part thereof shall be paid and may fix or settle the amount of costs to be so paid.”

There was a dispute between the parties.

The petitioner served notice dated 3.8.2018 for appointment of the arbitrator. The needful having not been done, the present petition was filed.

Prior to the filing of the petition, the parties agreed to the appointment of Mr. K.C. Sharma, District & Sessions Judge (Retd.) as sole arbitrator.

Learned counsel for the respondent submits that the issue with regard to limitation be kept open.

Accordingly, the present petition is disposed of by appointing Mr. K. C. Sharma, District & Sessions Judge (Retd.) , BB-2, VILLA-3, Ground Floors, Sector 81, Faridabad as sole arbitrator subject to declaration to be made by him under Section 12 of the Act with regard to independence and impartiality to settle the dispute between the parties.

Needless to say that the respondent would be at liberty to raise the issue of limitation before the arbitrator.

The clause in the terms and conditions and Fourth Schedule of the Act shall govern the fee of the arbitrator. The fee of the arbitrator will be equally borne by both the parties.

The arbitrator is requested to complete the proceedings as per time limit specified under Section 29A of the Act.

It is clarified that the reference shall be subject to the petitioner's complying with all the requirements of the agreement including the condition of pre-deposit.

Since the main case has been disposed of, pending applications, if any, stand disposed of.

Copy of the order be sent to the appointed arbitrator.

[AVNEESH JHINGAN]
JUDGE

24th February, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |