

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

106+253

**CM-4591-CII-2023 in/and
CR-1526-2021 (O&M)**

Date of Decision: 13th March, 2023

Arun Kumar Arora

... Petitioner

Versus

M/s. Twenty Four Guarding Pvt. Ltd. and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Aditya Grover, Advocate and
Mr. Vineet Sehgal, Advocate for the applicant/petitioner.

Mr. VK Sachdeva, Advocate for the respondents.

AVNEESH JHINGAN , J.(Oral)

1. This revision petition is filed aggrieved of orders dated 15.2.2021 and 27.2.2021 whereby the petitioner was proceeded against ex parte in arbitration proceedings and dismissing the application for setting aside the ex parte order respectively.

2. The brief facts are that the parties entered into agreement dated 7.11.2019 for transfer of shares and control & management of respondent-M/s. Twenty Four Guarding Pvt. Limited, Jangpura, New Delhi. The Clause of agreement provided for resolution of dispute through arbitration. The petitioner filed civil suit for permanent injunction relating to implementation of the agreement dated 7.11.2019. The respondents filed an application under Section 8 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') which was allowed on 14.8.2020. Aggrieved of the order, petitioner preferred the appeal which is still pending. During the pendency, the respondents unilaterally appointed the arbitrator. The

petitioner was proceeded against ex parte in the arbitration proceedings. The grievance raised by the petitioner is that the issue as to whether the dispute is arbitral or not is pending in appeal challenging order under Section 8 of the Act, yet petitioner was proceeded against ex parte.

3. Learned counsel for the respondents on instructions submits that in order to give fair opportunity to the petitioner, respondents have no objection if impugned orders are set aside provided that the proceedings of arbitration are not unnecessarily delayed by the petitioner.

4. In view of the consent given by learned counsel for the respondents, the impugned orders are set aside.

5. The petitioner would be at liberty to seek refund of amount deposited with the Registrar of this Court in pursuance to the order dated 19.8.2021.

6. At this stage, learned counsel for the parties in order to avoid multiplicity of litigation and unnecessary delay, agreed for appointment of Mr. Justice Rajiv Sharma (Retd. Judge of this Court), H. No. 505 (Backside First Floor), Sector-36 B, Chandigarh as arbitrator.

7. In the interest of justice and in view of the concession of the parties, Mr. Justice Rajiv Sharma (Retd. Judge of this Court), H. No. 505 (Backside First Floor), Sector-36 B, Chandigarh is appointed as sole arbitrator subject to declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to settle the dispute between the parties.

8. Learned counsel for the parties further agreed that the venue

of the arbitration be fixed at Chandigarh.

9. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended or as may be mutually settled by the parties and the Arbitrator. Fee of Arbitrator will be equally borne by both the parties. The Arbitrator is requested to complete proceedings as per time limit specified under Section 29-A of the Act.

10. 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. Copy of the order be sent to the appointed Arbitrator.

11. Revision petition is disposed of.

12. Since the main case has been decided, the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

13th March, 2023
anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No