

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Arbitration Case No. 295 of 2022 (O&M)

Date of decision: 21st February, 2023

Ritu Arora

Petitioner

Versus

M/s Poiner Urban Land and Infrastructure Ltd.

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Alok Mittal, Advocate for the petitioner.
Mr. Rajat Khanna and Mr. Gurpreet Singh, Advocates 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 petitioner is a subsequent purchaser of a flat allotted to Ms. Sangeeta Jain by the respondent. There is no dispute between the parties that the terms and conditions provided for dispute resolution through arbitration. The petitioner entered into an agreement to sell with the original allottee and thereafter the original allottee made a request for transfer of the apartment which was accepted by the respondent on 21.2.2014. The relevant portion is quoted below:

“The change of right to purchase is hereby confirmed subject to the conditions mentioned above and Approval from the competent authority under the provision of the Urban Land (Ceiling & Regulation) Act 1976, if required. Tentative area of apartment at the time of change is 397.53 in sq. mtr. (4279 sq. ft.)”

The petitioner raised a claim vide notice dated 8.9.2020. Thereafter, notice under Section 21 of the Act was issued on 2.11.2021. The needful having not been done, the present petition was filed.

Learned counsel for the respondent submits that there is no privity of contract between the petitioner and the respondent. The contention *prima facie* lacks merit. The petitioner has stepped into the shoes of original allottee and the respondent had accepted the change of rights to purchase.

Learned counsel for the respondent seeks liberty to raise the issue of limitation before the arbitrator.

Learned counsel for the parties agree to the appointment of Mr. V. K. Maheshwari, Principal Judge, Family Court (Retd.) as sole arbitrator.

Accordingly, the present petition is disposed of by appointing Mr. V. K. Maheshwari, Principal Judge, Family Court (Retd.), H. No. 85, Sector 30, Gurugram as the 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.

The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended. 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 cases have been disposed of, pending applications, if any, stand disposed of.

Copy of the order be sent to the appointed arbitrator.

[AVNEESH JHINGAN]
JUDGE

21st February, 2023

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |