

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

Arbitration Case No. 497 of 2021 (O&M)

Date of decision: 9<sup>th</sup> January, 2023

Headquarters Commander Works Engineer and another

Petitioners

Versus

M/s Ravit Road Construction

Respondent

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. P. C. Goyal, Advocate for the petitioners.  
Mr. Mohinder Pal, Advocate for the respondent.

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**AVNEESH JHINGAN, J (Oral):**

CM-12991-CII of 2022

The application is allowed, subject to all just exceptions. The amended written statement and the documents annexed with the application are taken on record.

Main petition

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 floated a tender for repair of road including allied work in technical and domestic area at Air Force Station, Halwara. The tender was allotted to the respondent. General conditions of the tender provided for resolution of dispute through arbitration. Clause 70 deals with the same and is reproduced below:

*“Arbitration Clause 70:-*

*All disputes, between the parties to the contract (other than those for which the decision of the C.W.E. or any other*

*person is by the contract expressed to be final and binding) shall, after written notice by either party to the contract to the other of them, be referred to the sole arbitration of an {Serving Officer having degree in Engineering, or equivalent or having passed final/direct final Examination of sub-Division KK of Institution of Surveyor (India) recognized by the Government of India} to be appointed by the authority mentioned in the tender documents.*

*Unless both parties agree in writing such reference shall not take place until after the completion or alleged completion of the works or termination or determination of the contract under condition Nos. 55, 56 and 57 hereof.*

*Provided always that commencement or continuance of any arbitration proceeding hereunder or otherwise shall not in any manner militate against the Government's right of recovery from the contract as provided in condition 67 hereof.*

*If the arbitrator so appointed resigns his appointment or vacates his office or is unable or unwilling to act due to any reason whatsoever, the authority appointing him any appoint a new Arbitrator to act in his place.*

*The arbitrator shall be deemed to have entered on the reference on the date he issues notice to both the parties, asking them to submit to him their statement of the case and pleadings in defence.*

*The Arbitrator may proceed with the arbitration, ex-parte, if either party, in spite of a notice from the Arbitrator falls to take part in the proceedings.*

*The Arbitrator may, from time to time with the consent of the parties, enlarge, the time for making and publishing the award.*

*The Arbitrator shall give his award within a period of six months from the date of his entering on the reference or within the extended time as the case may be on all matters referred to him and shall indicate his findings along with sums awarded,*

*separately on each individual, item of dispute [The arbitrator shall give reason for the award in each and every case irrespective of the value of the claims or counter-claims]*

*The venue of arbitration shall be such place or places as may be fixed by the Arbitration in his sole discretion.*

*The Award of the Arbitrator shall be final and binding on both parties to the contract.*

The dispute has arisen between the parties.

Learned counsel for the parties have not disputed the fact that there is an arbitration clause.

Learned counsel for the respondent submits that the petitioner has relied upon a forged annexure, annexed as R1 with the reply. He seeks liberty to raise the said plea before the Arbitrator at an appropriate stage.

The petition is accordingly disposed of by appointing Mr. Pradeep Virk, Advocate, H. No. 1068, Sector 27-B, Chandigarh as the 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.

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.

Copy of the order be sent to the appointed arbitrator.

**[AVNEESH JHINGAN]**  
**JUDGE**

**9<sup>th</sup> January, 2023**  
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1. Whether speaking/ reasoned : Yes / No

2. Whether reportable : Yes / No