

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

Arbitration Case No. 491 of 2021(O&M)

Date of decision: 17th January, 2023

Pavas Chowdhary and others

Petitioners

Versus

Yash Deep Builders LLP and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Abhinav Sood, Advocate for the petitioners
Mr. Amitabh Tiwari, Advocate for respondents No. 1,2, 4
and 5.

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 dispute has arisen between the partners and the arbitration clause is invoked relying upon Clause 32 of the LLP agreement dated 30.4.2018.

The petitioner sent two e-mails raising the dispute. Thereafter notice dated 5.8.2021 was sent and then the present petition was filed.

None appeared on behalf of respondent No. 3 despite service.

Learned counsel for respondents No. 1, 2, 4 and 5 submits that the respondents had not received notice under Section 21 of the Act, hence the petition is not maintainable.

Learned counsel for the petitioner relies upon the e-mails sent, copy of the receipt of registered post and also produced the tracking report.

Prima facie, the contention raised by learned counsel for the

respondents is not acceptable.

Learned counsel for the parties agree for appointment of Mr. C. B. Jaglian, District & Sessions Judge (Retd.).

The petition is accordingly disposed of by appointing Mr. C. B. Jaglian, District & Sessions Judge (Retd.), Flat No. D-503, Alaknanda, CGHS, Plot No. GH-45, Sector 56, Gurgaon 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.

Since the main case has been disposed of, pending application(s), if any, also stand disposed of.

17th January, 2023

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[AVNEESH JHINGAN]

JUDGE

1. Whether speaking/ reasoned

:

Yes / No

2. Whether reportable

:

Yes / No