

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

ARB-216-2019 (O&M)
Date of Decision:-03.11.2023

S. S. Builders ... Petitioner

Versus

The Wembleys Co-Operative House Building
Society Ltd. and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. A.K.Sharma, Advocate for the petitioner.
Mr. S.K.Kanojia, Advocate, for respondents No.1 and 2.
Mr. K.S.Rathour, Advocate, for respondent No.3.

GURVINDER SINGH GILL, J. (Oral)

1. This Court finds that CM-8939-CII-2022 remains undecided. The said application has been moved on behalf of applicant-Satkar Singh/sole Proprietor of M/s S.S.Builders to implead himself as a party to the instant petition.
2. Learned counsel for the petitioner has expressed that he has no objection in acceptance of the said application. As such, the application is allowed and Mr. Satkar Singh is ordered to be impleaded as respondent No.3. The amended memo of parties, annexed with the application is taken on record.

3. The instant petition has been filed by M/s S.S.Builders (a partnership firm) seeking appointment of an Arbitrator in terms of provisions of Section 11(6) of Arbitration and Conciliation Act, 1996.
4. Initially, a contract dated 28.9.2006 (Annexure A-4) was entered into between respondent No.1-M/s The Wembleys Co-Operative House Building Society Ltd. and M/s S.S.Builders (petitioner) for execution of the construction work in respect of the flats to be constructed for the housing society. Subsequently, a dispute having arisen, the petitioner requested for invoking arbitration vide letter dated 24.7.2018 (Annexue A-11), but to no avail leading to filing of the instant petition.
5. Pursuant to issuance of notice of motion, Mr. S.K.Kanojia, Advocate had put in appearance on behalf of respondents No.1 and 2. Mr. K.S.Rathour, Advocate, appears on behalf of respondent No.3.
6. Learned counsel representing respondents No.1 and 2 has vehemently opposed the petition on the ground that there was no agreement entered into between the petitioner and respondent Nos. 1 and 2 and that the agreement (Annexure A-4) was entered between the respondent-society (respondents No.1 and 2) and a sole proprietorship firm by the name M/s S. S. Builders. It has further been submitted that the petitioner herein claims to be a partnership firm stated to have been constituted vide a partnership deed dated 03.09.2010 (Annexure A-1) wherein Victor Singh is also shown as a partner though said Victor Singh happened to be a General Secretary of the housing society and as such could not have been part of the firm undertaking construction for society itself.

7. Learned counsel for respondent Nos. 1 and 2 further submitted that although there is another agreement of even date indicating that Victor Singh had retired w.e.f. 18.11.2010 but the same is apparently a forged and fabricated document inasmuch as the stamp paper bears the date 03.09.2010.
8. Learned counsel for respondent Nos. 1 and 2 further submitted that as a matter of fact, the entire payment as due, has already been paid to newly added respondent No.3-Satkar Singh, sole Proprietor of M/s S. S. Builders, with whom the contract (Annexure A-4) had actually been entered into.
9. Mr. K.S.Rathour, Advocate, representing newly added respondent No.3-Satkar Singh Bawa, sole proprietor of M/s S. S. Builders has vehemently denied the assertion of respondent Nos. 1 and 2 to the effect that the entire payment already stood paid. It has further been submitted that the partnership deeds annexed as Annexure A-1 and A-2 are a result of forgery and fabrication and that he had never signed on the said documents. Learned counsel for respondent No.3 has further submitted that as a matter of fact he is entitled to the outstanding payment in respect of the construction undertaken by M/s S.S.Builders.
10. At this stage, learned counsel for the petitioner submitted that since several payments had already been made in the bank account of the petitioner/firm, and that Satkar Singh and Victor Singh are also the partners of the firm, therefore, respondent Nos.1 and 2 cannot raise any dispute in respect of sanctity of the same.
11. This Court has considered the aforesaid submissions and has also perused the agreement dated 28.9.2006.

12. A perusal of agreement dated 28.9.2006 (Annexure A-4) would indicate that there is a specific provision for resolution of disputes by way of arbitration. This Court does find that there is a dispute with respect to the payments in respect of the work undertaken. Though, several other issues regarding forgery of some agreements have been raised before this Court, but this Court cannot overlook the fact that in any case, the sole proprietor of M/s S.S. Builder, with whom admittedly respondent Nos. 1 and 2 had entered into an agreement is also before this Court. Evidently there exists a dispute between the parties as regards payment arising out of contract between parties wherein resolution through arbitration is specifically provided. As such, this Court at this stage is not required to return findings as regards the authenticity of the documents. Having regard to the totality of the facts and circumstances of the case, the petition merits acceptance and is hereby accepted.
13. Accordingly, Chief Justice Satish Kumar Mittal (Retd.) is appointed as the sole Arbitrator. However, such appointment would be subject to the declaration to be made by Chief Justice Satish Kumar Mittal (Retd.) under Section 12 of the Act with regard to his independence and impartiality to settle the disputes between the parties.
14. 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.
15. The Arbitrator may conduct proceedings at Arbitration Centre, Chandigarh or at any other place convenient to all concerned.

16. After seeking convenience of the Arbitrator, the parties are directed to appear before him on 16.11.2023 at 11:00 A.M. or any other date suitable to all concerned.
17. A copy of this order be sent to the appointed Arbitrator at the given address :

H.No. 1545, Sector 7-C,
Chandigarh.
Phone No. 97800-08107
18. The petition is accordingly disposed of in the above mentioned terms.

03.11.2023
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No