

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

Arbitration Case No. 350 of 2019(O&M)

Date of decision: 9th January, 2023

Dayanand

Petitioner

Versus

M/s Aditya Birla Fashion & Retail Ltd.

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gurinder Pal Singh, Advocate for the petitioner.
Mr. Varun Sharma, Advocate 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 owner of a warehouse in village Pataudi, Tehsil Pataudi, District Gurugram. The warehouse was leased to the respondent vide lease deed dated 20.4.2016, clause 27 whereof is reproduced below:

“27. *Arbitration*

i) All disputes and differences arising out of this Deed shall be referred to arbitration in accordance with the provisions of Arbitration and Conciliation Act, 1996 and an Arbitrator to be mutually appointed by both the parties.

(ii) The venue of arbitration shall be Gurgaon and the proceedings shall be conducted in English language.”

There was a fire incident in which damage was caused to the premises. Though the building was insured, a claim was raised by the

petitioner stating that the fire damaged the premises and even the claim of insurance in full was not received due to the acts and conduct of the respondent.

Learned counsel for the respondent opposes the prayer and submits that there is no claim existing for arbitration and the petitioner has received the insurance claim.

Learned counsel for the parties agree that a Retired District & Sessions Judge at Gurugram be appointed as arbitrator.

From the perusal of the pleadings, it is evident that a *prima facie* claim is raised in the notice issued by the petitioner and in view of the restricted jurisdiction of this court at the stage of Section 11 of the Act, the petition is disposed of by appointing Mr. R. S. Virk, District & Sessions Judge (Retd.), H. No. H-7, Aaron Ville, Fazilpur Road, Sector 48, 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.

[AVNEESH JHINGAN]
JUDGE

9th January, 2023
mk

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