

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ARB-159-2023
Date of decision:-10.01.2024

M/s Gaanesh Kartikey Construction Pvt. Ltd.

...Petitioner

Versus

Chief Engineer (PMGSY), Punjab Mandi Board and another

...Respondents

CORAM : HON’BLE MR. JUSTICE SUVIR SEHGAL

Present : Ms.Rashika Bansal, Advocate for
Mr.Dheeraj Mahajan, Advocate
for the petitioner.

Mr.Ankit Chowdhri, Advocate
for the respondents.

SUVIR SEHGAL, J.(ORAL)

1. By way of instant petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (for short “the Act”), petitioner has approached this Court for appointment of an Arbitrator.
2. Reply by way of affidavit has been filed by Executive Engineer, Punjab Mandi Board, Amritsar - respondent, which is taken on record.
3. Except for disputing that the details of Annexure P1, whereby the tender was awarded to the petitioner, given in the petition

do not tally with the annexure, counsel for the respondent could not dispute that the contract was awarded to the petitioner vide letter No.7647 dated 21.12.2021, Annexure P1.

4. As to whether the No Claim Certificate or accord and satisfaction has been given by the petitioner voluntarily or under duress is a matter, which will be determined by the Arbitrator. Reliance in this regard is placed upon the judgments of the Supreme Court in *R.L.Kalathia and Co. Versus State of Gujarat, 2011 (2) SCC 400; M/s Ambica Construction Versus Union of India, 2006 (13) SCC 475* and *Union of India Versus Parmar Construction Company, (2019) 15 SCC 682*. As the respondent is not in a position to dispute that the contract agreement entered into between the parties contains an Arbitration Clause, which has been invoked by the petitioner by legal notice, Annexure P4, the prayer made in the petition deserves to be accepted.

5. Parties have agreed on the name of Arbitrator to be appointed at Amritsar.

6. Accordingly, petition is disposed of. Smt.Sunita Sharma, Retired District & Sessions Judge, 103, Krishna Square, near Celebration Mall, Amritsar is appointed as the sole Arbitrator to adjudicate the dispute between the parties, subject to declaration to be made by her under Section 12 of the Act with regard to her independence and impartiality to adjudicate the dispute between the parties.

7. Parties are directed to appear before the Arbitrator on 26.02.2024 at 11:00 A.M. at the address mentioned above or at any other place to be fixed with the consent of the parties.

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8. The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.
9. The arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the Act.
10. It is clarified that the reference shall be subject to the petitioner's complying with all the requirements of the agreement.
11. Copy of the order be sent to the appointed arbitrator.

(SUVIR SEHGAL)
JUDGE

10.01.2024
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Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No