



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(222)

ARB-132-2020 (O&M)
Date of decision:- 24.09.2024

Ashok Kumar Jain and another

... Petitioners

Versus

M/s Lotus Realtech Private Limited

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Adarsh Jain, Advocate for the petitioners.

Mr. Abhishek Singh, Advocate for the respondent.

Mr. Rajesh Punj, Advocate
for the applicant-proposed respondent No.2 in CM-115-CII-2021.

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”), petitioners have approached this Court for appointment of an Arbitrator to decide the dispute between the parties.
2. Counsel for the petitioners submits that a Collaboration Agreement dated 14.08.2013, Annexure P-1, which was duly registered, was entered into between the parties, which contains an Arbitration Clause. He submits that some disputes arose between the parties and despite chain of communication, they could not be redressed. He submits that by notice dated 05.08.2020, Annexure P-13, petitioners invoked the Arbitration Clause and by its reply dated 10.08.2020, Annexure P-14, respondent rejected the notice.



3. Upon notice by this Court, a short reply has been filed on behalf of the respondent, which is taken on record. By referring to the reply, counsel for the respondent submits that there is no dispute between the parties and the respondent has not violated any of the terms and conditions of agreement, Annexure P-1. He submits that the respondent has substantially completed the project, but has been unable to construct the entrance gate as a portion of the land is in possession of petitioner's son, Ajai Jain, which has been acquired by HUDA. He submits that under the agreement, petitioners are bound to handover the vacant possession of the land to the respondent, which they have failed to do. It has been further submitted that the petitioners had filed a petition under Section 9 of the Act, which has been decided on 03.05.2014 by the Commercial Court, Gurugram.

4. I have heard counsel for the parties and considered their respective submissions.

5. From the respective stand taken by the parties, it is apparent that a dispute exists between the parties, which deserves to be resolved by appointment of an Arbitrator.

6. Accordingly, petition is allowed. Mr. Justice (Retd.) Virendra Vikram Singh, a former Judge of the Allahabad High Court, resident of Flat No. E-803, Park View City-2, Sector 49, Sohna Road, Gurugram, Haryana, 122018 Mobile No. 8004928584, is nominated as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory provisions.

7. At this stage, counsel for the applicant, Ajai Jain, in CM-115-CII-2021 has pressed the application filed under Order 1 Rule 10 CPC for being impleaded as respondent No.2. Counsel for the applicant-proposed respondent



No.2 submits that he is the son of the petitioners and he has filed four separate suits regarding the portion of the land, which is in dispute. He submits that all the suits are pending and the petitioners as well as the respondent have been impleaded as party to the suits.

8. On a specific query, he conceded that the applicant-proposed respondent No.2 is not a party to the Collaboration Agreement, Annexure P-1, nor is he a signatory. Moreover, he could not dispute that a similar application filed by him was rejected by Commercial Court, Gurugram on 03.05.2024. In these circumstances, applicant-proposed respondent No.2 cannot be impleaded as a party to the petition. Application (CM-115-CII-2021) is dismissed.

9. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed by him at his convenience.

10. Liberty is granted to the parties to raise all claims, counter claims, defences, pleas etc. before the learned Arbitrator.

11. Needless to mention that all the questions arising between the parties in this matter shall remain open for determination in the arbitral proceedings and any observation made will not be binding on the learned Arbitrator.

12. A request letter alongwith a copy of the order be sent to Mr. Justice (Retd.) Virendra Vikram Singh.

(SUVIR SEHGAL)
JUDGE

24.09.2024
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No