



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Arbitration Case No. 173 of 2019 (O&M)

Date of Decision: 17.05.2024

Artemis Medicare Services Pvt. Ltd. Gurugram

.....Petitioner

versus

Chief Administrator, Haryana Shehri Vikas Pradhikaran, Panchkula.

.....Respondent

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA, ACTING CHIEF JUSTICE

Present : Mr. A.K.Sengupta, Advocate,
Mr. Vijay Sharma, Advocate,
Mr. Suraj Prakash, Advocate,
Ms. Deblina Sengupta, Advocate, for the petitioner.

Mr. Deepak Sabharwal, Advocate, for the respondent.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

This petition has been filed by the petitioner for appointment of an arbitrator in terms of Clause 20 of the allotment letter dated 15.02.2006 (Annexure A-2) to adjudicate upon the disputes and differences between the parties. As per the allotment letter dated 15.02.2006, total 8.30 acres of land was allotted in favour of the petitioner for setting up a hospital in Sector 51, Gurgaon. Clause 20 of the allotment letter reads as under:-

“All disputes and difference arising out of or in any way touching or concerning this allotment whatsoever shall be referred to the sole Arbitration of the Chief Administrator or any other officer appointed by him it will not be an objection to such appointment that the Arbitrator so appointed is a Government servant or an officer of the Authority that he had to deal with the matter to which this allotment relates and in the course of his duties as such Government Servant of officer as the case may be he has expressed his views on all or any of the matters in dispute or difference. The decision of such Arbitrator shall be final and binding on the concerned parties.”



2. Apparently, at an earlier point of time, the petitioner had approached this Court by filing Civil Writ Petition Nos. 24201 of 2017 and 14669 of 2018 which were disposed of on 04.07.2018 (Annexure A-24) by giving liberty to the petitioners to avail the benefit of OTS scheme/policy dated 15.05.2018 whereby the allottees were being offered concession to the extent of 40% of the outstanding amount but a rider had been imposed that they could not litigate qua the said concession in any manner. It was thus held that if the petitioners were left with any grievance, they shall be entitled to approach the appropriate forum including this Court for further relief.

3. Apparently the petitioner vide letter dated 15.02.2019 (Annexure A-27) invoked the Arbitration Clause-20 of the allotment letter and raised a demand for appointment of an arbitrator within a period of 30 days. It is not disputed that in view of the law laid down by the Supreme Court in ***Perkins Eastman Architects DPC and another vs. HSCC (India) Ltd. 2020(20) SCC 760***, the respondent as such cannot appoint any official and therefore, the needful has to be done by this Court.

4. On an earlier occasion, the matter had been deferred since Special Leave Petition (C) No. 4440 of 2019 was pending before the Apex Court. Now this Court has been informed that the said Special Leave Petition has been dismissed as withdrawn on 05.02.2024. The relevant part of the order reads as under:-

“After arguing the case, learned counsel for the petitioners seeks permission to withdraw these special leave petitions because the order impugned has been passed without notice.

However, the petitioners are at liberty to apply before the High Court seeking review. It is further open to the petitioners to seek condonation of delay.

With the aforesaid observations, these special leave petitions stand dismissed as withdrawn.”

5. It is to be noticed that a bunch of Special Leave Petitions including Special Leave to Appeal (C) No. 403 of 2019 arising out of Civil Writ Petition No. 16489 of 2018 was filed by the respondent-State of Haryana and the same was dismissed as withdrawn on 05.02.2024. Apparently, all the Special Leave Petitions were dismissed as withdrawn and the Apex Court had given liberty to the respondent-State of Haryana to file a review application as the writ petitions had been disposed of without issuing notice to the other side.

6. In the present case, both the parties had been heard as such and this Court has neither been informed that any review has been filed. In such circumstances, as per the allotment letter itself, there is a provision for appointment of an Arbitrator and the matter has been pending since long and a Coordinate Bench of this Court at that point of time had given liberty to the petitioners that the matter inter se the parties can be resolved by the Arbitrator.

7. Resultantly, this petition stands disposed of by appointing Justice Adarsh Kumar Goel, former Judge of the Supreme Court of India, as nominated Arbitrator to adjudicate upon the disputes and differences between the parties. Necessary declaration as required under Section 12(5) of the Arbitration and Conciliation Act, 1996 be called from the proposed arbitrator by way of e-mail and be placed on record. In case the declaration as sought is not received or the Arbitrator expresses his inability to enter into the arbitration proceedings, liberty is granted to the parties to apply for appointment of fresh arbitrator.

(G.S.SANDHAWALIA)
ACTING CHIEF JUSTICE

17.05.2024

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No