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

ARB-275-2023**Date of Decision: 24.07.2024**

**NIRMAL MAHAJAN DECEASED THROUGH HER HUSBAND
VIJAY KUMAR MAHAJAN** Applicant

Versus

STATE OF PUNJAB AND ANR Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Dheeraj Mahajan, Advocate
for the applicant.

Mr. Puru Jarewal, AAG, Punjab.

Mr. Vikrampreet Arora, Advocate and
Mr. Puneet Bhushan, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

1. The applicant through instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 is seeking appointment of an arbitrator.

2. The applicant vide allotment letter dated 25.06.2004 was allotted 'Tea Shop'. The applicants initially deposited earnest money and thereafter made payment of balance agreed amount. The applicants constructed the site and applied for completion certificate to respondent. On account of non-issuance of completion certificate, the applicant allegedly suffered losses and he served legal notice upon respondent No.2. The applicant vide notice dated 15.05.2023 asked the respondent to appoint an arbitrator to resolve the issue.

3. Mr. Dheeraj Mahajan, Advocate submits that as per Clause



16 of Contract executed between the parties, the respondent is bound to appoint an arbitrator, however, it has failed to do so. The respondent cannot make appointment of Secretary, Local Bodies as an arbitrator.

4. Per contra, Mr. Vikrampreet Arora, Advocate submits that as per Clause 16 of contract, only Secretary, Punjab Government, Local Government can be appointed arbitrator.

5. I have heard the arguments and perused the record.

6. In view of Section 12(5) of Arbitration and Conciliation Act, 1996, the Secretary who is head of respondent department cannot be appointed as an arbitrator. The respondents are not disputing existence of contract as well as Arbitration Clause. They are also not disputing the fact that a dispute has arisen between the parties.

7. From the perusal of record and arguments of both sides, it is evident that there is no dispute qua existence of contract between the parties as well as arbitration clause. The applicant and respondent-Corporation are conceding that there is dispute and in terms of arbitration clause in the agreement, it needs to be resolved through Arbitrator.

8. In view of above facts and findings, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed.

9. Sh. Bua Jee Sansi, Additional District & Sessions Judge (Retd.) Resident of H. No. 59 Tara Singh Avenue, Basti Bawa Khel, Kapurthala Road, Jalandhar (M. No.9417769549) is appointed as the sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements.

10. The Arbitrator shall be paid fee in accordance with the



Fourth Schedule of the Act, as amended.

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

12. Needless to mention, parties will be at liberty to raise all the claims/defences/counter claims/pleas including that of limitation before the Arbitrator. Any observation made hereinabove will not be binding on the learned Arbitrator.

13. A copy of this order be sent to Sh. Bua Jee Sansi, Additional District & Sessions Judge (Retd.).

(JAGMOHAN BANSAL)
JUDGE

24.07.2024
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>