



ARB-222-2020 (O&M) & connected cases

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

235 (19 cases)

ARB-222-2020 (O&M)
Decided on 22.10.2024

M/s ABW Suncity

...Applicant

Versus

Anil Kataria

...Respondent

With

Sr. No.	Case No.	Applicant	Respondent(s)
2.	ARB-223-2020 (O&M)	M/s ABW Suncity	Rajiv Malik
3.	ARB-232-2020 (O&M)	M/s ABW Suncity	Amit Ahuja and another
4.	ARB-240-2020 (O&M)	M/s ABW Suncity	Balroop Kaur
5.	ARB-241-2020 (O&M)	M/s ABW Suncity	Rajive Kumar Khosla and another
6.	ARB-246-2020 (O&M)	M/s ABW Suncity	Sudhir Kumar Pruthi and another
7.	ARB-248-2020 (O&M)	M/s ABW Suncity	Deepak Kapoor and another
8.	ARB-250-2020 (O&M)	M/s ABW Suncity	Rohit Singh Tanwar and others
9.	ARB-252-2020 (O&M)	M/s ABW Suncity	Jasmine Kaur Saini
10.	ARB-253-2020 (O&M)	M/s ABW Suncity	Parshotam Lal and another
11.	ARB-197-2020 (O&M)	M/s ABW Suncity	Dolly Sharma
12.	ARB-198-2020 (O&M)	M/s ABW Suncity	Ritu Singal and another
13.	ARB-199-2020 (O&M)	M/s ABW Suncity	Ravi Kapur and another
14.	ARB-201-2020 (O&M)	M/s ABW Suncity	Raj Kumar Wirmani
15.	ARB-263-2021 (O&M)	M/s ABW Suncity	Naveen Jain and another



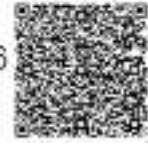
16.	ARB-264-2021 (O&M)	M/s ABW Suncity	Sharad Verma and another
17.	ARB-266-2021 (O&M)	M/s ABW Suncity	Manmeet Singh
18.	ARB-182-2021 (O&M)	M/s ABW Suncity	Praveen Somani
19.	ARB-200-2021 (O&M)	M/s ABW Suncity	Surinder Singh

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Himanshu Gupta, Advocate and
Mr. Ritvik Garg, Advocate for the applicant(s)

JAGMOHAN BANSAL, J. (Oral)

1. As common issues are involved in the above captioned applications, with the consent of parties the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from **ARB-222-2020**.
2. Through instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short '**1996 Act**'), the applicant is seeking appointment of a sole Arbitrator.
3. The parties entered into agreement dated 27.08.2009 (Annexure P-2). There is an arbitration clause in the aforesaid agreement. The applicant, in terms of Section 21 of the 1996 Act, served notice dated 15.01.2020 (Annexure P-7) upon the respondent and proposed the name of Mr. M.C. Mehra as Arbitrator. However, the respondent did not agree to the aforesaid arrangement.



4. The instant applications are pending before this Court since 2020. The Supreme Court vide order dated 19.05.2022 passed in ***SLP (Civil) No.5306 of 2022*** has passed directions to dispose of all pending applications under Section 11(5) and 11(6) of 1996 Act or/any other applications either for substitution of arbitrator and/or change of arbitrator, which are pending for more than one year from the date of filing, within six months from 19.05.2022.

5. The applicant is a builder who had constructed a housing society. There are several buyers of the applicant. With respect to payment of VAT at a later stage, the applicant has raised dispute with his buyers. A Coordinate Bench of this Court vide order dated 12.05.2021 passed in ***RA-CR-25-2021 in ARB-52-2021, M/s ABW Suncity v. Tarun Malik and others*** has appointed a sole Arbitrator to resolve the issue between the applicant and different buyers. The said order was challenged before Supreme Court by way of ***SLP No.11522 of 2021, Vikas Laroia and another v. M/s ABW Suncity***. The SLP stands dismissed vide order dated 13.08.2021 passed by Supreme Court.

6. Despite service, the respondent has opted to abstain from joining the proceedings before this Court. The matter is pending before this Court since January' 2022 and it cannot be kept pending for indefinite period especially when the prayer in the application is confined to appointment of an Arbitrator who ultimately would adjudicate rights and liabilities of the parties. Thus, this Court is left with no option except to adjudicate the case.



7. Conditions to invoke power conferred by Section 11(6) of 1996 Act stand satisfied, thus, I hereby appoint a sole Arbitrator to adjudicate the dispute between the parties.

8. Mr. S.C. Goyal, District & Sessions Judge (Retd.), residing at Flat No.204, Tower 2, Malibu Town, Sector 47, Sohna Road, Gurugram, Mobile No.9813204570 is hereby appointed as a Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements. The learned Arbitrator is requested to comply with mandate of Section 12 of 1996 Act before proceeding further.

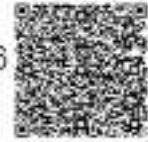
9. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed by the Arbitrator at his convenience.

10. The Arbitrator is entitled to fee in accordance with the Fourth Schedule of the Act, as amended, however, he, in view of large number of respondents and connected/similar matters, is requested to take care of quantum of fee to be charged from the respondent.

11. The Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the Act.

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

13. Pending application(s), if any, shall stand disposed of.



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14. A request letter along with copy of this order be sent to Mr. S.C. Goyal.

(JAGMOHAN BANSAL)
JUDGE

22.10.2024
Mohit Kumar

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