



ARB-269-2020(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ARB-269-2020(O&M)

Date of decision:-30.08.2024

Shourya Towers Pvt. Ltd.

...Petitioner

Versus

Jalandhar Improvement Trust, Jalandhar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present : Mr.Chetan Mittal, Senior Advocate with
Mr.M.S. Nain, Advocate and
Mr.Himanshu Gupta, Advocate
for the petitioner.

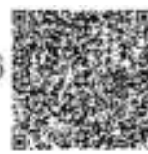
Mr.Vikas Chatrath, Advocate and
Ms.Preet Agroa, Advocate
for respondents No.1 and 2.

Ms.Amrita Garg, AAG, Punjab
for respondents No.3 and 4.

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 a sole Arbitrator to settle the dispute between the parties.

2. Mr.Mittal, learned Senior counsel submits that an agreement

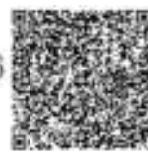
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dated 05.08.2005, Annexure P1/A, was entered between the petitioner and respondent No.1 for construction of Multi Storey Flats in Surya Enclave. He submits that although the construction work was to be completed within 3 years of the signing of the agreement, but time was extended upto 30.06.2021. He submits that some dispute arose between the parties and the petitioner invoked arbitration clause XI (5) of the agreement by serving a notice dated 01.07.2020, Annexure P17. He asserts that the notice remained unattended. It is his submission that as per the arbitration clause, the Administrative Secretary of the Department of Local Government has been named as the arbitrator, but he is ineligible under Section 12 (5) of the Act.

3. Upon notice of this Court, petition has been contested by respondent, by filing a response wherein it had been submitted that the petition is barred by limitation. Petition has been contested on the ground that the petitioner has delayed the competition of the construction work.

4. Counsel for the petitioner has argued that during the pendency of the petition, the petitioner has been served with a show-cause notice dated 05.08.2021, Annexure P19, for the termination of the agreement, to which the petitioner has submitted reply dated 17.08.2021, Annexure P20. Counsel for the respondents has contended that there is a delay of 15 years in invoking the arbitration clause as the agreement – Annexure P1/A was entered into in the year 2005.

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

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6. The objection pertaining to delay in raising the claim, deserves to be noticed and rejected. From the stand taken by respondents in their reply, it is evident that the time period for completing the construction work was extended till June, 2021. The contract is still subsisting and there is no material on the record to show that it has been terminated. A dispute has arisen between the parties and the petitioner has served a notice in compliance of Section 21 of the Act, to which the respondents have failed to respond. This Court, therefore has no hesitation in accepting the prayer made in the petition.

7. In view of the above, petition is allowed. Mr. Justice (Retd.) Rajiv Sharma, a former Judge of this Court, r/o House No. 505 (Backside First Floor), Sector 36-B, Chandigarh, 160036, M: 9816700002 is requested to act as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements.

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

9. Parties will be at liberty to raise all the pleas/defences before the Arbitrator.

10. Needless to mention that all the questions arising between the parties including that of limitation, will remain open for determination in the arbitral proceedings, and any observation made hereinabove will not be binding on the learned Arbitrator.

11. A request letter be sent to Mr. Justice (Retd.) Rajiv Sharma alongwith a copy of this order.



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12. Pending application, if any, stands disposed of.

30.08.2024

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(SUVIR SEHGAL)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No