



ARB-367-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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ARB-367-2023 (O&M)
Date of Decision: 23.10.2024

Aarti Kuthiala

...Applicant

Versus

M/s Avaante International Co. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. R. Kartikeya, Advocate and
Ms. R. Akanksha, Advocate for the applicant
Mr. Pardeep Sharma, Advocate for respondent No.5

JAGMOHAN BANSAL, J. (Oral)

1. Through instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short '**1996 Act**'), the applicant is seeking appointment of an Arbitrator.

2. A perusal of order dated 13.12.2023 reveals that respondent No.2 refused to accept the notice, accordingly, vide said order, he was ordered to be proceeded *ex-parte*.

3. Despite service, respondent No.4 has opted to refrain from participating in the proceedings before this Court. Respondent No.1 is a partnership firm and respondent Nos.2 to 5 are its partners. It appears that partners are intentionally avoiding the appearance to delay the proceedings. The matter is pending before this Court since 2023 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.

4. The parties executed partnership deed dated 17.12.2016 (Annexure P-1). A dispute erupted between the parties. There is an arbitration clause in the aforesaid deed. The execution of agreement, arbitration clause in agreement and service of notice under Section 21 of 1996 Act is not disputed by respondent No.5.

5. Learned counsel for respondent No.5 submits that the respondent has already resigned.

6. The question of resignation and liability of respondent No.5 would be adjudicated by the Arbitral Tribunal.

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. Justice Mahavir Singh Chauhan, Retired Judge of this Court, residing at House No.145, Near Jalvayu Towers, New Sunny Enclave, Sector 123, S.A.S. Nagar (Mohali), Punjab, Mobile Nos.9876097772 & 7986976351 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 shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.
11. The Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the 1996 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.
14. A request letter along with copy of this order be sent to Mr. Justice Mahavir Singh Chauhan.

(JAGMOHAN BANSAL)
JUDGE

23.10.2024
Mohit Kumar

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