



ARB-387-2023

-1-

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

269

ARB-387-2023

Date of Decision: 28.08.2024

Deepak Kumar

...Applicant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Nikhil Handu, Advocate for the applicant

Ms. Harsh Rekha Kapoor, Assistant Advocate General, Haryana

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. The applicant furnished earnest money to the tune of ₹19.60 Lakhs, however, he did not furnish performance security because as per him, the respondent failed to arrange site for the execution of work. He, under compelled circumstances, sought refund of earnest money.

3. The respondent submits that contract was never executed between the parties though allotment letter was issued and general terms and conditions of contract formed part of allotment letter. The contract could not be executed because applicant did not furnish performance security.

**ARB-387-2023****-2-**

4. On being confronted with letter dated 07.07.2023 issued by the respondent, learned State counsel expressed her inability to controvert the fact that site could not be arranged.

5. 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.

6. Mr. Justice Ram Chand Gupta, Retired Judge of this Court, residing at House No.215CP, Sector 4, M.D.C. Panchkula, Mobile No.9780008147 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.

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

8. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.

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

10. Needless to mention, parties would be at liberty to raise all the claims/defences/counter claims/pleas including question of failure on the part of respondent to arrange site and circumstances whereunder earnest money

was released to the applicant before the Arbitrator. Any observation made hereinabove will not be binding on the learned Arbitrator.

11. A request letter along with copy of this order be sent to Mr. Justice Ram Chand Gupta.

(JAGMOHAN BANSAL)

JUDGE

28.08.2024

Mohit Kumar

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