

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(237)

ARB-465-2022(O&M)
Date of decision:- 10.04.2024

M/s New Variety Decorators Pvt. Ltd.

... Petitioner

Versus

The Estate Officer, Haryana Sheri Vikas Pradhikaran (HSVP), Rewari
and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vishal Yadav, Advocate for the petitioner.

Mr. P.S.Rana, Advocate for the respondents.

SUVIR SEHGAL, J. (ORAL)

CM-4817-CII-2024

1. Prayer in the application, filed under Order 1 Rule 10 CPC read with Section 151 CPC, is for impleading Haryana Shehri Vikas Pradhikaran (for short “HSVP”) as respondent No.2.
2. Counsel for the applicant-petitioner submits that the application is being moved as an objection has been taken by the respondent that HSVP has not been made a party.
3. For the reasons given in the application, it is allowed.
4. HSVP is impleaded as respondent No.2.

Main case

1. Issue notice to the newly impleaded respondent.
2. Mr. P.S.Rana, Advocate accepts notice on behalf of newly

impleaded respondent No.2. He submits that the reply, already filed on behalf of respondent No.1, be taken as a reply on behalf of the newly impleaded respondent.

3. By way of instant petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short “the Act”), petitioner has approached this Court for appointment of an Arbitrator to adjudicate the dispute, which has arisen between the parties.

4. Counsel for the petitioner submits that the petitioner entered into a lease agreement dated 02.09.2014, Annexure P-2, with respondent No.2 and Clause 20, thereof, contains an Arbitration Clause. He submits that a dispute has arisen between the parties and the petitioner has served notice dated 27.05.2022, Annexure P-8, upon the respondents invoking the Arbitration Clause, but the respondents kept silent.

5. Upon notice, response has been filed, wherein it has been submitted that the dispute has to be referred to the Administrator of erstwhile HUDA now known as HSVP. In their response, respondents have admitted the agreement as well as the service of notice invoking the Arbitration Clause.

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

7. The objection raised by the respondents deserves to be noticed and rejected in view of the amended provision of Section 12 (5) read with Seventh Schedule of the Act. Moreover, in ***Perkins Eastman Architects DPC and another Versus HSCC (India) Ltd., 2020(20) SCC 760***, Supreme Court has held that a person, who is interested in the outcome of the arbitration, can neither be appointed as an Arbitrator nor can he nominate a

person on his behalf.

8. Resultantly, petition is allowed. Mr. Justice Adarsh Kumar Goel, a former Judge of the Supreme Court, resident of C-2/24, Ground Floor, Safdarjung Development Area, New Delhi-11016, Mobile No. 9910213040 is requested to act as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory provisions of the Act.
9. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed by him at his convenience.
10. A request letter alongwith a copy of the order be sent to Mr. Justice Adarsh Kumar Goel (Retd.).

10.04.2024
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No