

Neutral Citation No. **2024:PHHC:058436**

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

277

ARB-488-2023 (O&M)

Date of Decision:29.04.2024

M/s R.S. Builders

... Petitioner

Vs

Municipal Corporation, Amritsar and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Dheeraj Mahajan, Advocate for the petitioner.

Mr. Sarthak Soni, Advocate for

Mr. Sanjeev Soni, Advocate for the respondents.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') for appointment of an Arbitrator to adjudicate the dispute between the parties.

2. Counsel for the petitioner submits that the petitioner was given a work vide order dated 22.01.2020, Annexure P-1, for augmentation of water supply pipe line of Amritsar Town under AMRUT (Package-I). He submits that a contract agreement was signed between the parties and clause 25 of the conditions of the contract provides for reference of dispute to arbitrator/arbitral

Tribunal. He submits that in terms thereof, petitioner approached the Executive Engineer by notice dated 14.06.2023, Annexure P-3, who did not respond. He submits that after waiting for almost 3 months, petitioner served a legal notice dated 08.09.2023, Annexure P-4, invoking the arbitration clause without any result.

3. Written statement has been filed on behalf of the respondents, which is taken on record, wherein it has been submitted that the claim has not been submitted within a period of six months of the date of completion as certified by the Engineer. Still further another objection has been taken that the claim raised by the petitioner is more than Rs.15 Crores.

4. Counsel for the petitioner has invited the attention of the Court to para 10 of the petition, which is supported with an affidavit of the petitioner to submit that the approximate value of the claim is around Rs.2 Crores and the notice invoking the arbitration clause, Annexure P-4 has been served by raising an escalated claim. Counsel further submits that the petitioner would file an appropriate claim before the Arbitrator. He has also placed reliance upon the judgment of the Supreme Court in ***Grasim Industries Ltd. Versus State of Kerala***, 2018 (14) SCC 265.

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

6. In ***Grasim Industries's*** case (supra), interpreting Section 28(b) of the Contract Act, 1872, Supreme Court has held that if a restricted period for raising an arbitral dispute has been provided, the

same has to be treated as void. Consequently, the objections raised by the respondents are rejected.

10. Petition is allowed.
11. Mr. Justice (Retd.) Darshan Singh, Former Judge of Punjab and Haryana High Court, H.No.56, Sector 16-A, Chandigarh, 08558809940 is requested to act as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements.
12. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed by the Arbitrator at his convenience.
13. Parties will be at liberty to raise all the claims/defences/counter claims/pleas before the Arbitrator.
14. Needless to mention that all the questions arising between the parties in this matter will remain open for determination in the arbitration proceedings and any observation made hereinabove will not be binding on the learned Arbitrator.
15. A request letter along with a copy of this order be sent to Mr. Justice (Retd.) Darshan Singh.

29.04.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

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