



ARB-28-2023 (O&M)

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

(249)

ARB-28-2023 (O&M)

Date of decision:- 13.05.2024

Rakesh Kumar (since deceased) through LRs and others ...Petitioners**Versus****M/s Gurgaon 24X7 Parkers Pvt. Ltd.****...Respondent****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Himanshu Chaudhary, Advocate for the petitioners.

Mr. Gurkamal S. Kandhola, Advocate for the respondent.

SUVIR SEHGAL, J. (ORAL)**CM-805-CII-2023**

1. Exemption, as prayed for, is granted.
2. Application is allowed.

Main case

1. By way of instant petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short “the Act”), petitioners have approached this Court for appointment of an Arbitrator to adjudicate the dispute between the parties.
2. Counsel for the petitioners submits that a lease agreement dated 01.07.2011, Annexure P-1, was entered into between the petitioners and the respondent for a period of 30 years. He submits that respondent defaulted in

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the payment of the lease money and the petitioners served a legal notice dated 19.07.2022, Annexure P-3, invoking the Arbitration Clause. He submits that by their response dated 08.08.2022, Annexure P-4, respondent denied its liability.

3. Upon notice, reply has been filed by the respondent, wherein it has been averred that the respondent was an intermediary between the petitioners and M/s Rapid Metro Rail Gurgaon Limited (for short “RMRGL”). It has been submitted that RMRGL is in a moratorium and till the time the respondent is not paid the lease money by RMRGL, it will not be in a position to make the payment to the petitioner. It has been further submitted that RMRGL is a necessary party to the petition.

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

5. On a specific query, counsel for the respondent could not point out any Clause in the agreement, Annexure P-1, to show that the payment of lease money to the petitioners was dependent upon receiving it from RMRGL. A perusal of the agreement, Annexure P-1, does not make any reference to the agreement allegedly executed between the respondent and RMRGL. This Court is, therefore, of the view that RMRGL is neither a necessary party to the petition nor its having been placed under moratorium has any impact on the present petition. Accordingly, the prayer made in the petition deserves to be acceded to.

6. Resultantly, petition is allowed. Sh. V.K. Maheshwari, Principal Judge, Family Court (Retd.), resident of H. No. 85, Sector 30, Gurugram,



Haryana-122001, Mobile No. 9910384671 is appointed as the sole Arbitrator to adjudicate the dispute between the parties, subject to declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to adjudicate the dispute.

- 7. Parties are directed to appear before the Arbitrator on 10.06.2024 at 11:00 A.M. at the address mentioned above or at any other place, time or date to be fixed by the Arbitrator.
- 8. Fee shall be paid in accordance with the Fourth Schedule of the Act, as amended.
- 9. Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the Act.
- 10. Liberty is granted to the parties to raise all claims, counter claims, defences, pleas etc. before the Arbitrator.
- 11. Needless to mention that all the questions arising between the parties in this matter shall remain open for determination in the arbitral proceedings and any observation made hereinabove will not be binding on the learned Arbitrator.
- 12. Copy of the order be sent to the appointed Arbitrator.

(SUVIR SEHGAL)
JUDGE

13.05.2024
Kamal

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