



2024:DHC:6432



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **ARB.P. 854/2024****SAUMYA BINANI & ORS.Petitioners****Through: Mr. Surjadipta Seth & Mr.
Ashok Kumar Jain, Advs****versus****BANWARI LAL SHARMA ALIAS****BANWARI LALRespondent****Through: Mr. Pawanjit Singh Bindra, Sr.
Adv. Mr. Lakshay Dhamija, Mr. Sunav
Rastogi & Ms. Priti, Advs.****CORAM:****HON'BLE MR. JUSTICE C. HARI SHANKAR****JUDGMENT (ORAL)****%****23.08.2024**

1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996¹ for reference of disputes between the parties to arbitration.

2. The petitioners and the respondent entered into an Agreement to Sell² dated 27 September 2023 in respect of property admeasuring 8 bigha and 3 biswas situated at Khasra No. 85/1, 98/1/1 and 98/2 at Village Shahoorpur, Tehsil Hauz Khas, Delhi³ whereby the petitioners agreed to purchase and acquire the said land from the respondent for a total consideration of ₹ 14,79,00,000/-.

¹ "the 1996 Act" hereinafter

² "ATS" hereinafter

³ "the disputed property" hereinafter

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3. Clause 16 of the ATS envisaged resolution of disputes by arbitration and read thus:

“16. Any dispute, differences or claims between the Parties arising in relation to any matter under this Agreement or incidental thereto shall be settled by a sole arbitrator to be appointed by both the parties and the arbitration proceedings shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and any statutory modification or re-enactment thereto. The Parties shall mutually appoint such sole arbitrator. The place of arbitration shall be New Delhi. The language of arbitration shall be English.”

4. The respondent cancelled the ATS *vide* letter dated 14 March 2024, wherein it was communicated to the petitioners that the application for issuance of No Objection and Land Status Report made at Sub-Registrar Office, Hauz Khas has been rejected by the Department of Revenue, Govt of NCT of Delhi⁴ *vide* letter dated 2 March 2024.

5. Disputes thus arose among the parties, the petitioners, by notice dated 14 May 2024, invoked Clause 16 of the ATS by nominating the name of a sole arbitrator and calling upon the Respondent to convey his consent on the said name, not later than 30 days of receipt of the Notice. The respondent, by letter dated 21 May 2024, refused to give consent.

6. The petitioner has accordingly moved this court under section 11(6) of the 1996 Act for reference of the disputes to arbitration.



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7. Mr. Pawanjit Singh Bindra, learned Senior Counsel for the respondent, has no objection to the disputes being referred to arbitration.

8. As there exists an arbitration clause between the parties and as the present petition has been filed within three years of the Section 21 notice issued by the petitioners to the respondent, following the judgment of the Supreme Court in *SBI General Insurance Co Ltd v. Krish Spinning*⁵, this Court proceeds to appoint an Arbitrator to arbitrate on the disputes between the parties.

9. Accordingly, this Court appoints Mr. Anant V Palli, Advocate (Mob: 9810199102) as the Arbitrator to arbitrate on the disputes between the parties.

10. The learned arbitrator shall be entitled to charge fees as per the Fourth schedule of the 1996 Act.

11. The learned arbitrator is also requested to file requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on the reference.

12. All questions of fact and law are left open to be agitated in the arbitral proceedings.



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13. The petition stands allowed in the aforesaid terms.

C. HARI SHANKAR, J

AUGUST 23, 2024/yg

Click here to check corrigendum, if any

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