



2024:DHC:9938



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 20.12.2024

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ARB.P. 943/2024 and IA Nos.46285/2024 (on b/o petitioner seeking withdrawal of petition) and 49078/2024 (on b/o intervenor for compliance of order dated 28-10-2024)

SATBIR SINGH & ORS.

.....Petitioners

Through: Mr. Kunal Vajani, Mr. Kunal Mimani, Mr. Shubhang Tandon, Ms. Shraddha Chirania, Mr. Mridul Y, Suri, Advs. along with all the petitioners through v/c.

versus

MR. SUMIT SINGLA

.....Respondent

Through: Mr. Sunil Bhatt, Mr. V.K. Singh, Dr. Kamini Lau, Advs. for intervenor. Mr. Yogesh V. Nadkarni, Ms. Samredhi S. Jain, Ms. Simran Khadilkar, Ms. Chaitanya Dixit, Advs.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

1. The present petition has been filed by the petitioners under Section 11(5) of the Arbitration and Conciliation Act, 1996 (hereinafter referred as 'the A&C Act) seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties, arising out of a Memorandum of Understanding (MoU) dated 12.10.2021.
2. The parties to the said MoU are Mr. Satbir Singh (petitioner No.1), Mr. Sumit Singla (respondent) and Mr. Rohan Harmalkar (the intervenor).



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3. During the course of these proceedings, an application came to be filed by the petitioner being IA No.46285/2024 seeking unconditional withdrawal of the present petition. The same has been vehemently opposed on behalf of Mr. Rohan Harmalkar, who has sought to intervene in these proceedings and has filed a detailed reply to the aforesaid IA No.46285/2024.
4. Essentially, it has been contended by the intervenor in the reply that:-
- (i) The petitioner has been unable to produce the original MoUs dated 04.09.2021 and 12.10.2021 and also the Sale Deed dated 17.01.2019, as directed by this Court, *vide* order dated 28.10.2024. It is contended that evidently, the petition has been filed on the basis of documents whose veracity is doubtful. It is submitted that since the petitioners are in no position to comply with the directions contained in the order dated 28.10.2024, the present petition has been sought to be withdrawn. It is contended that the petitioners must suffer the consequences of the requisite documents being not available with it.
- (ii) It is contended that prior to filing of the present petition, certain other proceedings were initiated by the petitioners in Goa. It is alleged that the petitioners are guilty of forum shopping, and indulging in fraudulent conduct.
5. The contentions of intervenor are strongly disputed by learned counsel for the petitioners.
6. For the purpose of the present proceedings, this Court is not required to go into the intricate details of the allegations and counter-allegations made by the parties as regards the background of the disputes, or to pronounce upon the genuineness of the respective case sought to be



canvassed in these proceedings.

7. Given the limited scope of jurisdiction of these proceedings, and considering that the petitioner seeks to unconditionally withdraw the present petition, this Court is inclined to accede to the said request. In **HPCL Bio-Fuels Ltd. v. Shahaji Bhanudas Bhad**, 2024 SCC OnLine SC 3190 the Supreme Court has observed that the unconditional withdrawal of an application to appoint an arbitrator constitutes an abandonment of the entire arbitration process itself. The relevant portion of the judgment is reproduced as under –

“66. If that is so, the unconditional withdrawal of a Section 11(6) petition amounts to abandoning not only the formal prayer for appointing an arbitrator but also the substantive prayer for commencing the actual arbitration proceedings. It amounts to abandoning the arbitration itself. It results in abandonment of the notional ‘arbitration proceeding’ that had commenced by virtue of Section 21 and thus amounts to an abandonment of a significant nature. Therefore, it is all the more important to import and apply the principles underlying Order 23 Rule 1 of the CPC to abandonment of applications under Section 11(6).”

8. Needless, to say, the intervenor is not precluded from initiating appropriate proceedings against the petitioners and the other respondents to agitate the issue/s sought to be raised by it in its intervention application and/or seeking action against the petitioners on account of their alleged conduct/acting as elaborated in the intervention application. All rights and contentions of the intervenor in this regard are expressly reserved. However, it is made clear that this order shall not be construed as an expression of opinion of this Court as regards the respective allegations/ counter-allegations of the parties.

9. With the aforesaid observations, IA No.46285/2024 is consequently allowed. ARB.P. 943/2024 is consequently, dismissed as withdrawn.



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10. IA No.49078/2024, filed by the intervenor also stands disposed of in view of the unconditional withdrawal of the present petition.

SACHIN DATTA, J

DECEMBER 20, 2024/cl

Signature Not Verified

Digitally Signed By: ROHIT
KUMAR PATIL
Signing Date: 24.12.2024
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