



2024:DHC:5765



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ARB.P. 1090/2023**

BABITA GOYAL

.....Petitioner

Through: Mr. Vinod Dahiya and Mr.
Saaransh Sharma, Advocates

versus

**BHASIN INFOTECH AND INFRASTRUCTURE
PVT.LTD & ORS.**

.....Respondent

Through: Ms. Raveesha Gupta, Advocate

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER (ORAL)

02.08.2024

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1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 for reference of the disputes between the parties to arbitration.

2. The disputes arise in the context of an Allotment Letter dated 10 September 2011, whereunder the petitioner was allotted space in the premises owned by the respondent. The grievance of the petitioner is relatable to his not having been offered possession of the aforesaid premises, which, according to him, is unjustified.

3. As against this, Ms Raveesha Gupta, learned counsel for the respondent, submits that possession of the aforesaid area was offered to the petitioner, but he did not turn up. This fact is disputed by the

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learned counsel for the petitioner.

4. The Allotment Letter contains the following clause, which envisages resolution of the disputes by arbitration :

“44. (b) All or any dispute arising out of or touching upon or in relation to the terms of this provisional allotment letter including the interpretation and validity of the terms thereof and the respective rights and obligations of the parties shall be settled amicably by mutual discussion failing which the same shall be settled through arbitration. The arbitration proceedings shall be governed by the Arbitration and Conciliation Act, 1996 or any statutory amendments/modifications thereof for the time being in force. The Arbitrator shall be appointed by the Company. The arbitration proceedings shall be held at an appropriate location in Delhi /New Delhi. The Courts at Delhi alone shall have jurisdiction in all matters arising out of touching and / or in connection to this letter.”

5. The petitioner has addressed a notice to the respondent under Section 21 of the 1996 Act on 18 July 2023.

6. Ms. Raveesha Gupta, learned counsel for the respondent, submits that the claims are barred by time. She further submits that Respondents 2 and 3 have been unnecessarily included in these proceedings as they are former Directors of Respondent 1.

7. In so far as the plea of limitation is concerned, in view of the judgment of the Supreme Court in **SBI General Insurance Co Ltd v. Krish Spinning¹**, a Section 11(6) Court cannot examine the aspect of whether the claims which have been sought to be referred to

¹ 2024 SCC OnLine SC 1754



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arbitration are barred by time or not. The only aspect of limitation which a Section 11(6) Court can examine – and which it is required to examine – is whether the Section 11(6) petition has been filed within three years of issuance of the notice invoking the arbitration clause.

8. As the present Section 11(6) petition has been filed within the said period, all other aspects, including the aspect of whether the claims are time barred, have to be relegated to arbitration.

9. Mr. Vinod Dahiya, learned counsel for the petitioner is agreeable to the arbitration presently being limited to the petitioner and Respondent 1. As such, for the present, the arbitration shall be between the petitioner and Respondent 1. It shall be open to the petitioner, if he so chooses, to seek inclusion of Respondents 2 and 3 in the arbitral proceedings. Any such application, if moved, will be considered by the Arbitrator on its own merits.

10. In view of the aforesaid, this Court appoints Ms. Rajasree Ajay, Adv. (Mob: 9250053858) as the Arbitrator to arbitrate on the disputes between the parties.

11. The learned Arbitrator would be entitled to fees as per the Fourth Schedule to the 1996 Act.

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

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13. All questions of fact and law are left open to be agitated before the learned Arbitrator.

14. This Court has not expressed any view on any aspect of the matter either preliminary or on merits.

15. The petition stands disposed of in the aforesaid terms.

C.HARI SHANKAR, J

AUGUST 2, 2024/yg

Click here to check corrigendum, if any

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