



2024:DHC:7181



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

+ **ARB.P. 1055/2024**

MR. RAKESH SAWHNEY & ANR.Petitioners

Through: Mr. Gurinder Pal Singh, Ms.
Jaya Bajpai and Ms. M. Beg, Advocates

versus

**M/S SKYLINE CONSTRUCTIONS
AND ANR**

.....Respondents

Through: Mr. Anurudh Bhatia and Ms.
Shreya S, Advs.

**CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR**

**JUDGMENT (ORAL)
17.09.2024**

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1. This is a petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996¹, seeking reference of the disputes between the parties to arbitration.

2. The disputes arise in the context of a Collaboration Agreement dated 21 December 2021 executed between the petitioners and Respondent 1. Respondent 2 is the sole proprietor of Respondent 1 and has signed the Collaboration Agreement in his capacity as such proprietor. As such, it is not necessary to separately implead Respondent 2, inasmuch as Respondent 1 has been impleaded through Respondent 2. Accordingly, Respondent 2 stands deleted from the array of parties.

Signature Not Verified¹ "the 1996 Act", hereinafter

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3. The Collaboration Agreement envisages resolution of disputes by arbitration. The arbitration clause reads thus :

“36. That any dispute or difference arising out of or in relation to or in connection with this agreement including without limiting the disputes relating to a breach or non-compliance with the terms of this Agreement shall be settled by arbitration by a sole Arbitrator appointed by the parties. The sole arbitrator shall be mutually appointed by the parties within 30 days of the dispute occurring, failing which the arbitrator shall be appointed in accordance with the Arbitration and Conciliation Act, 1996, as read with and modified by Arbitration and Conciliation Act, 2015 (‘Arbitration Act’). The seat and venue of arbitration shall be at New Delhi and the arbitration proceedings shall be conducted in accordance with the Arbitration Act and rules made thereunder for the time being in force.”

4. Disputes having arisen between the parties, the petitioner addressed a notice to the respondents on 15 May 2024 invoking arbitration. The respondents replied on 11 June 2024 and also issued a separate notice to the petitioner seeking reference of the claims of the respondents against the petitioner to arbitration.

5. As such, each side has raised claims against the other.

6. As the parties have not been able to arrive at a consensus regarding arbitration, the petitioner has moved this petition under Section 11(5) of the 1996 Act.

7. As there exists an arbitration agreement between the parties, applying the law laid down in *SBI General Insurance Co Ltd v Krish Spinning²*, the dispute has to be referred to arbitration.



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8. The claims and counter claims are both stated to be in the region of ₹ 2.5 Crores each.

9. Accordingly, the disputes stand referred to arbitration. This Court requests Mr. V P Singh, (Tel: 9830357800), a learned retired Member (Judicial) in the National Company Law Appellate Tribunal, to arbitrate on the disputes between the parties.

10. The fee of the learned arbitrator shall be fixed by the Arbitrator in consultation with the parties.

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

12. All issues of fact and law, whether on maintainability or on merits, remain open to be agitated before the learned Arbitrator. This Court has not expressed any opinion on any aspect of the matter.

13. The petition stands allowed in the aforesaid terms.

C. HARI SHANKAR, J.

SEPTEMBER 17, 2024

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[Click here to check corrigendum, if any](#)

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