



2024:DHC:9894



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

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Date of Decision: 20.12.2024+ **ARB.P. 1546/2024**

AJAY POLY PVT LTD

.....Petitioner

Through: Mr. Rohan Sharma, Ms. Manmeet
Kaur and Mr. Jai Dogra, Advs.

versus

JAYESH KRISHNAN NAIR

.....Respondent

Through: Mr. Yogesh Gaur, Ms. Seema Saini
and Ms. Deepti Verma, Advs.
(through v/c)**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred as '*the A&C Act*') seeks constitution of an arbitral tribunal to adjudicate the disputes between the parties.
2. The disputes between the parties have arisen in context of an appointment letter/employment agreement dated 25.11.2021 (hereinafter '*the agreement*'), in terms of which, the respondent was appointed as a 'General Manager- Plant Head' at the petitioner/company.
3. Disputes between the parties have arisen on account of the respondent's resignation from the petitioner/company *vide* email dated 10.03.2024, allegedly in breach of the terms of the agreement, for which the petitioner issued a legal notice dated 17.04.2024, demanding a sum of Rs.



10,54,076/- as damages.

4. Clause 23 of the agreement contains the arbitration agreement and reads as under:-

*“23. **Dispute Resolution and Jurisdiction:** All disputes arising in connection with this Appointment Letter and your employment shall be settled, if possible, by amicable negotiation of the parties. If the matter is not resolved by amicable negotiations within twenty (20) business days or such later date as may be unanimously agreed upon, then the dispute shall be adjudicated through arbitration. Any dispute arising out of or in connection with this Appointment Letter and your employment, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in accordance with the Arbitration and Conciliation Act 1996, as amended from time to time. The seat and venue of the arbitration shall be New Delhi. The Tribunal shall consist of **one** arbitrator(s) to be mutually decided. The award rendered by the arbitrator shall be final, conclusive and binding on all parties to this Agreement and shall be subject to enforcement in any court of competent jurisdiction at Delhi/New Delhi.”*

5. Disputes having arisen, the petitioner issued a notice invoking arbitration on 25.06.2024; proposing the names of three persons who could be appointed as the sole arbitrator to adjudicate the disputes between the parties. The respondent sent a reply dated 24.09.2024, refuting the claims raised by the petitioner in the invocation notice on their merits. The parties were unable to mutually agree upon the appointment of a sole arbitrator. Hence, the present petition has come to be filed.

6. Learned counsel for the respondent does not dispute the existence of the arbitration agreement and accedes to the appointment of a sole arbitrator to adjudicate the disputes between the parties.

7. As held in **SBI General Insurance Co. Ltd. v. Krish Spinning** 2024 SCC OnLine SC 1754, the scope of enquiry in these proceedings, under Section 11 of the A&C Act, is confined to only ascertaining the existence of an arbitration agreement. In the present case, since there is no controversy as



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regards the existence of the arbitration agreement, there is no impediment to constituting an Arbitral Tribunal to adjudicate the disputes between the parties.

8. Accordingly, Mr. Daksh Kadian, Advocate (Mobile - +91 9465979398) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

9. The respondents shall be at liberty to raise preliminary objections as regards arbitrability/jurisdiction, if any, which shall be decided by the arbitrator, in accordance with law.

10. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties the requisite disclosure as required under Section 12 of the A&C Act.

11. Let the arbitration take place under the aegis of and as per the rules of the Delhi International Arbitration Centre (DIAC).

12. All rights and contentions of the parties in relation to the claims/counter claims are kept open, to be decided by the learned Sole Arbitrator on their merits, in accordance with law.

13. Needless to say, nothing in this order shall be construed as an expression of opinion of this court on the merits of the case.

14. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

DECEMBER 20, 2024/dn