



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

286

ARB-331-2024

Date of decision: 11.03.2025

DESH RAJ AND ANOTHER**....APPLICANT****Vs.****INDUS TOWER LIMITED****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Sanjeev Roy, Advocate
for the applicants.

Mr. Aman Bansal, Advocate
for the respondent.

JAGMOHAN BANSAL, J (ORAL)

1. Through instant application under Section 11 of the Arbitration and Conciliation Act, 1996 (for short '1996 Act'), the applicant is seeking appointment of an Arbitrator.
2. The parties entered into arbitration agreement dated 30.07.2013. A dispute erupted between the parties. The applicant served notice upon respondent seeking resolution of dispute through arbitral tribunal but to no avail.
3. Mr. Aman Bansal, Advocate, counsel for the respondent submits that application as well as claim of the applicants is barred by limitation. The applicants at the first instance approached Civil Court in 2013 and withdrew their suit in March' 2014. They filed ARB-262 of 2017 before this Court which was withdrawn with liberty to file afresh with better particulars. They filed fresh application which was also withdrawn with liberty to serve notice upon respondent invoking arbitration clause. As applicants did not approach this Court within 3 years from the date of withdrawal of suit, thus, application is hopelessly barred by limitation.

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4. From the sequence of event, it come out that applicants were always in litigation and it is not a case that they remained dormant from 2014 to 2024. They repeatedly approached Courts, thus, question of limitation needs to be examined by Arbitral Tribunal.

5. The execution of arbitration agreement and service of notice invoking arbitration clause is not disputed.

6. Conditions to invoke power conferred by Section 11(6) of 1996 Act stand satisfied, thus, I hereby appoint a sole Arbitrator to adjudicate the dispute between the parties.

7. Mr. Rajesh Garg, Additional District & Sessions Judge (Retd.), residing at House No.626, Sector 16-A, Faridabad, Mobile No. 8558873008 is hereby appointed as a Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements. The learned Arbitrator is requested to comply with mandate of Section 12 of 1996 Act before proceeding further.

8. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed by the Arbitrator at his/her convenience.

9. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the 1996 Act, as amended.

10. The Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the 1996 Act.



11. Needless to mention, parties would be at liberty to raise all the claims/defences/counter claims/pleas before the Arbitrator. Any observation made hereinabove will not be binding on the learned Arbitrator.
12. A request letter along with copy of this order be sent to Mr. Rajesh Garg.

11.03.2025	[JAGMOHAN BANSAL]
manoj	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No