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

+ **ARB.P. 1948/2024 & I.A. 12538/2025**

ROSHAN POLYMERS PVT LTDPetitioner

Through: Mr. Rakesh Tiku, Senior Advocate
with Ms. Aarushi Tiku, Advocate.

versus

**EMPLOYEES STATE INSURANCE
CORPORATION**

.....Respondent

Through: Mr. Satish Kumar, Advocate.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

04.08.2025

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1. This petition is filed on behalf of the Petitioner under Section 11(5) and (6) of the Arbitration and Conciliation Act, 1996 ('1996 Act') for appointment of an Arbitrator.
2. Facts to the extent necessary in the petition are that on 07.12.2022, Respondent i.e. ESIC, Noida issued Notice Inviting Tender on its website for taking on rent premises measuring approximately 20,000 – 24,000 sq. ft. for purpose of setting Sub-Regional office at Noida. Petitioner submitted its technical bid @ 46.5/- per sq. ft. per month along with demand draft for an amount of Rs.12,96,000/-. Being the lowest bidder, bid of the Petitioner was accepted by the Respondent.
3. It is averred by the Petitioner that after several communications, a Lease Agreement was executed between the parties on 20.06.2023 wherein the term of lease was five years and subject premises bearing No. A-75, Sector 57, Noida, Uttar Pradesh were let out at a monthly rent of



Rs.11,60,000/-. Rent was payable by 10th of the following month from the date on which physical possession was handed over. Petitioner spent approximately Rs.50 lacs in making customised changes to the premises as per Respondent's requirement and vide e-mail dated 11.08.2023, Respondent was informed that premises were ready for taking possession. However, despite multiple reminders thereafter, no initiative was taken by the Respondent to take the physical possession.

4. It is stated that complaint was filed by the Petitioner on 18.03.2024 on the official grievance portal of Ministry of Labour and Employment, Government of India against which a response was received stating that decision regarding shifting of the Sub-Regional Office to the subject premises was under consideration. Thereafter, Petitioner came across an Office Memorandum dated 23.06.2023 issued by the Respondent wherein a decision was taken that no Branch Office/Dispensary-cum-Branch Office shall be opened in private rented premises and Respondent would use its own land and building for construction, if necessary. Realising that the subject premises may not be taken on lease in light of this O.M., Petitioner invoked the arbitration clause in the Lease Agreement and sent a notice to the Respondent on 24.05.2024 under Section 21 of the 1996 Act, which was duly delivered at the office of the Respondent, but there was no response. In light of this, Petitioner has approached this Court for appointment of an Arbitrator to adjudicate the disputes arising out of the Lease Agreement.

5. Learned counsel for the Respondent takes an objection to the territorial jurisdiction of this Court to entertain this petition. It is argued that the arbitration clause does not designate seat, place or venue of arbitration and provisions of Sections 16 to 20 CPC would thus be attracted to



determine the territorial jurisdiction for appointment of the Arbitrator under Section 11 of 1996 Act. It is further urged that the subject premises is situated in Noida and the Lease Agreement was also executed at the said place. The cause of action of the Petitioner is that physical possession of the leased property was not taken over by the Respondent, resulting in monetary loss to the Petitioner and therefore the dispute emanates out of the Lease Agreement. No part of the cause of action pertaining to the Lease Agreement has arisen in Delhi and the mere fact that an O.M. has been issued from the office of the Respondent at Delhi cannot be reason enough to entertain this petition as the dispute is not with respect to the said O.M.

6. Counsel for the Petitioner, on the other hand, submits that there is no merit in the preliminary objection since this Court has the territorial jurisdiction to entertain this petition. It is submitted that indisputably, the arbitration clause does not designate seat, place or venue of arbitration and therefore, provisions of Sections 16 to 20 CPC will hold the field to decide the territorial jurisdiction. In the present case, Respondent had voluntarily entered into a Lease Agreement with the Petitioner and was willing to take physical possession of the subject property, however, it was owing to the decision taken by virtue of O.M. dated 23.06.2023 that the possession was not taken. Hence, the O.M. is the reason on account of which the disputes have arisen and since the O.M. was issued from the office of ESIC at Delhi, part cause of action has arisen in Delhi and by virtue of Section 20(c) CPC, this Court has territorial jurisdiction to entertain this petition.

7. Reliance is placed by learned counsel on the judgment of this Court in ***Barco Electronic Systems Pvt. Ltd. v. Mrs. Kiran Malik, 2011 SCC OnLine Del 5522***, wherein this Court has held that even if premises in question are



located at Noida and the Lease Agreement was executed there, the claim of the Petitioner being not with reference to the premises itself but pertaining to refund of security deposit i.e., a claim of recovery of money will be outside the ambit of Section 16 CPC and would be covered by Section 20 CPC. Relevant paragraph of the judgment, relied upon by the counsel is as follows:-

“17. As regards the territorial jurisdiction of this Court, it requires to be noticed that both parties are ad idem that the claim of the Petitioner is for refund of security deposit. Therefore even if the premises in question is located at Noida and the agreement of lease dated 11th September 2000 was executed there, the present claim of the Petitioner is not with reference to the premises itself. In contrast, the reliefs sought by the Respondent in Suit No. 999 of 2007 filed by her in the civil court at Noida was in relation to the premises. With the Petitioner having admittedly vacated the premises, its claim is nothing but one for recovery of money. Therefore the said claim would be outside the ambit of Section 16 CPC and would be covered by Section 20 CPC.”

8. Heard learned counsels for the parties and examined their submissions.

9. For better appreciation of the rival submissions, I may refer to the arbitration clause in the Lease Agreement, which is extracted hereunder for ready reference:-

“22. If any dispute is not resolved through mutual consultations within sixty (60) days after commencement of discussions or such longer period as the parties agrees to in writing, then any party may refer the dispute for resolution by arbitration. All such dispute shall be referred to and finally resolved by arbitration by sole arbitrator to be appointed by LESSEE and LESSOR by mutual consent. The arbitration proceedings shall be conducted in accordance with the arbitration and Conciliation Act, 1966 as may be applicable from time to time or any other enactment replacing it. The arbitration award shall need to be finalized by the sole arbitrator within six months of the beginning of the arbitration failing which the aggrieved party shall be free to approach competent court for resolution of the dispute. The competent court will have the exclusive jurisdiction to try and entertain dispute. When any dispute is under arbitration, except for the matter under dispute, the parties shall continue to exercise their



remaining respective rights and fulfill their remaining respective obligation under this agreement to the extent possible.”

10. It is a settled position of law that in the arbitration regime, even if no part of cause of action has arisen in a place, as envisaged in Section 20(c) CPC, parties can mutually agree to a seat of jurisdiction and/or a neutral place/venue which in the absence of a contrary *indicia* will be the juridical seat. However, it is equally settled that if parties do not specify and designate any seat/place of arbitration, then the jurisdiction of a referral Court under Section 11 of 1996 Act will be determined in accordance with Sections 16 to 20 CPC.

11. In the present case, there is neither any seat, place or venue determined by the parties in the arbitration clause and therefore territorial jurisdiction of this Court has to be determined in accordance with Sections 16 to 20 CPC. There is no dispute between the parties that the subject property in respect of which Lease Agreement was executed is located in Noida and the Agreement itself was executed and signed at Noida. Lessee in the Lease Deed is Sub-Regional Office Noida, ESIC. Considering these facts, it is crystal clear that neither the Respondent carries on its official work at Delhi nor any party of the cause of action has arisen here. Plain reading of the petition along with notice invoking arbitration under Section 21 of 1996 Act shows that the primary dispute between the parties has its genesis in the fact that having entered into a Lease Agreement with the Petitioner for taking on lease the subject premises for five years and leading the Petitioner to invest money on customized changes in the premises, Respondent failed to honour its obligation and take physical possession of the premises, which consequently resulted in monetary loss to the Petitioner,



both on account of investment of Rs. 50 lakhs as also by keeping the property vacant for a long period. None of these facts, in my view, constitute a cause of action at Delhi. Therefore, Section 20 CPC can be of no avail to the Petitioner. Argument of the Petitioner that this Court has jurisdiction since O.M. dated 23.06.2023 was at Delhi, is wholly misconceived. It is not the O.M. which is the subject matter of arbitration and therefore its issuance from Delhi will not confer territorial jurisdiction of this Court to refer the dispute arising out of the Lease Agreement executed at Noida for a property located at Noida to arbitration.

12. Reliance on the judgment in *Barco Electronic (supra)* is misplaced. In the said case, claim of the Petitioner was for refund of security deposit and in this backdrop, Court held that even if the premises in question were located at Noida and Lease Deed executed there, jurisdiction of this Court will not be ousted inasmuch as Respondent was residing in Delhi. In the present case, Lease Agreement is between the Petitioner and Sub-Regional Office Noida, ESIC and therefore neither the concerned office of the Respondent is at Delhi nor any part of cause of action has arisen here and therefore the judgment is inapplicable.

13. For all the aforesaid reasons, this petition cannot be entertained for want of territorial jurisdiction of this Court and is accordingly dismissed. Liberty is, however, granted to the Petitioner to take recourse to appropriate remedy before the Court having jurisdiction in the matter.

14. Petition stands disposed of along with pending application.

JYOTI SINGH, J

AUGUST 4, 2025/Shivam