



ARB-3-2024 (O&M)

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

CM-4519-CII-2026 in/and
ARB-3-2024 (O&M)
Date of decision: 27.03.2026

IL&FS Engineering and Construction Company Limited

.....Applicant

Versus

Ireo Private Limited

....Respondent

CORAM: **HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE**

Present: Mr. R.C. Sharma, Advocate,
for the applicant.

Mr. Anand Vardhan Khanna, Advocate,
for respondent.

SHEEL NAGU, CHIEF JUSTICE

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Documents (Annexures R-5 to R-10) are taken on
record.

CM-4519-CII-2026 stands allowed accordingly.

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1. Instant application u/s 11 (6) (b) of Arbitration and Conciliation Act, 1996 (for short, '1996 Act'), seeks appointment of Sole Arbitrator.
2. Reply on behalf of respondent has already been filed and the same perused.

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3. The only objection raised by the respondent is that the material fact of the rival party, having entered into another sub contract by way of an agreement dated 28.04.2015, has not been disclosed by the applicant herein.

3.1 This Court feels that execution of sub contract dated 28.04.2015 between rival parties was material fact, which ought to have been disclosed in the application under Section 11(6) of 1996 Act. Not having been done so, this Court cannot reject the application but deems it appropriate to impose cost of Rs.25,000/- on the petitioner to be deposited with Poor Patient Welfare Fund, PGIMER, Chandigarh.

4. Moreover, there is no other dispute between the rival parties with respect to main contract dated 10.06.2014 where the arbitration clause 83.2 prescribes for the sole Arbitrator and there is definitely an arbitral dispute between the rival parties.

5. In the opinion of this Court, as the pre-requisites for invoking powers under Section 11(6) of the Arbitration and Conciliation Act, 1996 appear to be satisfied, the objections raised by the Respondent do not constitute a valid impediment to the exercise of this Court's power to appoint an arbitrator.

6. The law regarding the scope of examination under Section 11(6) of the Arbitration and Conciliation Act, 1996 is well settled. At the stage of considering an application for appointment of an arbitrator, the Court is only required to

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undertake a limited prima facie examination as to the existence and validity of the arbitration agreement and whether the disputes are manifestly non-arbitrable. Unless it is ex facie clear that the arbitration agreement is non-existent, invalid, or the disputes are demonstrably non-arbitrable, the matter ought to be referred to arbitration.

7. The Apex Court in **Vidya Drolia Vs. Durga Trading Corporation, (2021) 2 SCC 1**, **NTPC Ltd. Vs. SPML Infra Ltd. (2023) 9 SCC 385**, and **DLF Home Developers Ltd. Vs. Rajapura Homes (P) Ltd., (2021) 2 SCC 675**. has consistently held that the referral Court, while exercising jurisdiction under Section 11, is not expected to conduct a mini trial or enter into a detailed adjudication of disputed questions. The rule is: “when in doubt, do refer.”

8. Accordingly, this application is allowed.

9. This Court disposes of this application in the following manner:

9.1 Mr. Justice Ram Chand Gupta, former Judge of this Court, residing at House No. 215 CP, Sector-4, M.D.C., Panchkula, Mobile No.097800-08147, is hereby appointed as Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements under 1996 Act before proceeding ahead.

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

10. The Arbitrator so appointed under this order will be free to adjudicate the questions of his/her jurisdiction and also the parties shall be free to raise all possible contentions/submissions/counter-claims before the Arbitrator.

11. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of 1996 Act, as amended from time to time, or fee as agreed to by the parties.

12. The Arbitrator is requested to complete the arbitral proceedings as per time limit stipulated u/s 29-A of 1996 Act.

13. Any observation made hereinabove is meant merely for passing this order and shall not be construed as expression on merits of the dispute.

14. A request letter along with copy of this order be sent to Mr. Justice Ram Chand Gupta, former Judge of this Court.

15. Since the petitioner-company is under liquidation and the proceedings before NCT are on, the Arbitrator shall proceed with the matter and deliver the award in a sealed cover and submit the same to the professional appointed under the Insolvency and Bankruptcy Code (IBC).

(SHEELNAGU)
CHIEF JUSTICE

27.03.2026

Ajay Prasher

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No