



ARB-414-2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

ARB-414-2025 (O&M)
Date of decision: 27.03.2026

Funex Infra Pvt. Ltd.

.....Applicant

Versus

The Sherwood Officers Society

....Respondent

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

Present: Ms. Ravisha, Advocate,
for Mr. Sahil Khunger, Advocate,
for the applicant.

None for respondent.

SHEEL NAGU, CHIEF JUSTICE

1. No one appears for the respondent.
2. Instant application u/s 11 of Arbitration and Conciliation Act, 1996 (for short, '1996 Act'), seeks appointment of Arbitrator.
3. The rival parties herein entered into a Memorandum of Understanding dated 22.04.2023 (Annexure P-2) containing an arbitration clause as follows:

"7. In case, there arises any dispute which is attributable to a dispute inter-se the first party and its members, or a dispute inter-se the first party and third

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parties or pertaining to individuals/land owners who are part of the project, and not attributable to the second party in relation the total land, of any nature whatsoever, which may result in delaying the project of the second party (Khetan English County) in any manner by causing impediments, the said event shall be notified bythe second party to the first party in writing, and till resolution of the said dispute attributable to the first party with its members/or of third parties, the first party shall not present the above referred PDCs of the subsequent period for encashment on the due dates. The payment schedule has been settled upon the expectation that the project approvals shall get matured by November 2023 and in the eventuality where the same is delayed for the reason, which is not attributable to the second party, the schedule of payments shall be accordingly adjusted. In case of any dispute inrelation to the issuance of notice by the second party to the first party in this context for refraining the first party from presenting for encashment the PDCs, the same shall be resolved by an arbitrator having legal background, to be appointed with mutual consent by the parties. The arbitrator shall decide the said limited dispute, if any within a maximum period of one month and n extension shall be granted in this regard to and by the arbitrator under any circumstances, who shall be bound to hold day to day sittings with the representative of the parties. The fee ofthe arbitrator shall be settled mutually, payable by each party in equal proportion.”

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3.1. Dispute erupted between the parties. The Applicant served notice dated 09.12.2024 (Annexure P-5) upon respondent seeking resolution of dispute through Arbitral Tribunal, but no appointment was made by the Respondent.

4. Since none appeared on behalf of the respondent, the reply filed by the Respondent has been perused. It is seen that the principal objection raised by the respondent does not pertain to the existence or execution of the arbitration agreement per se, but rather to the ambit of disputes that may fall within its scope.

4.1 The respondent has not denied the execution of the Memorandum of Understanding dated 22.04.2023, nor has it specifically disputed the incorporation of the arbitration clause contained therein. The respondent has also not raised any foundational challenge as regards the authenticity, validity, or existence of the arbitration agreement or the cause being a deadwood.

4.2 The respondent's stand, as discernible from the reply, is essentially that the petitioner has misrepresented and over-expanded the scope of the arbitration clause and is attempting to invoke arbitration in respect of disputes which, according to the respondent, are beyond the limited contingencies contemplated under the said clause. The respondent has further sought to contend that the petitioner is a defaulting party and that the present invocation is an attempt to evade

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consequences arising from dishonor of cheques and allied proceedings.

5. 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 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.

6. The Supreme 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.”

7. In the opinion of this Court, as the prerequisites for invoking powers under Section 11(6) of the Arbitration and Conciliation Act, 1996 stand 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.

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8. Accordingly, this application is allowed.

8.1 Mr. Justice Inderjit Singh, former Judge of this Court, residing at House No. 497, IAS/IPS Society, New Chandigarh, Mobile No. 8558809904, 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.

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

10. The Arbitrator is appointed with the liberty to determine jurisdiction and rule on any objections including (but not limited to) ruling on objections with respect to the existence or validity of the arbitration agreement and the scope of the Arbitrator's authority in accordance with Section 16 of the 1996 Act.

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 Inderjit Singh, former Judge of this Court.

(SHEELNAGU)
CHIEF JUSTICE

27.03.2026
Ajay Prasher

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