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

**ARB-448-2025 (O&M)
Date of Decision:16.03.2026**

Punjab Stubble Solutions

.....Petitioner

Versus

Rana Sugars Limited

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Amit Bansal, Advocate for the petitioner.

Mr. Rajinder Singh Bhatta, Advocate for the respondent.

JASGURPREET SINGH PURI J.(Oral)

1. The present is a petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act'), seeking appointment of a sole arbitrator in the present case.

2. Reply filed on behalf of respondent is taken on record.

3. Learned counsel for the petitioner submitted that an agreement was entered into between the parties vide Annexure P-1, which was in the nature of a purchase agreement for paddy. In the aforesaid agreement, there exists an arbitration clause pertaining to dispute resolution, contained in paragraph No.5, which provides that if any dispute arises between the parties, then an endeavour is to be made in good faith to negotiate and settle

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the dispute amicably before referring the dispute to arbitration. If no amicable settlement is arrived at between the parties within 30 days then the matter shall be referred to arbitration by a sole arbitrator mutually appointed by the parties and the same shall be resolved in accordance with the provisions of the Arbitration and Conciliation Act, 1996. He further submitted that since a dispute pertaining to payment arose between the parties and in this regard, the petitioner served a legal notice dated 02.04.2025 upon the respondent vide Annexure P-2 and had raised a demand from the respondent with regard to an amount of Rs. 1,19,000/- along with interest @ 12% per annum. A reply was received from the respondent vide Annexure P-3 dated 07.04.2025, in which the aforesaid claim was denied. Thereafter, the petitioner issued a notice dated 23.05.2025 (Annexure P-4) under Section 21 of the Act, invoking the arbitration clause. In the said notice, it was clarified in paragraph No.9 that the amount mentioned in the earlier legal notice dated 02.04.2025 was on account of a clerical error, having been erroneously stated as Rs. 1,19,000/-, whereas the correct amount is Rs. 1,19,00,000/-. He further submitted that the said notice invoking arbitration was duly sent to the respondent by registered post on 23.05.2025, however, no response thereto has been received. Accordingly, a prayer has been made for appointment of a Sole Arbitrator to adjudicate the disputes between the parties.

4. On the other hand, learned counsel for the respondent submitted that there is no dispute regarding the existence of the agreement

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(Annexure P-1) or the arbitration clause contained therein. There is also no dispute regarding the invocation of the arbitration clause by the petitioner by issuing notice (Annexure P-4) to the respondent. He submitted that however, the objection of the respondent is that the petitioner has not exhausted the remedy of amicable settlement between the parties, which was the mechanism so provided under the aforesaid arbitration clause and therefore the present petition is liable to be dismissed. In this regard, he submitted that the petitioner ought to have resorted to amicable settlement between the parties and it was for the senior management assignee or representative of each party to participate in negotiation for settlement, and in default thereof, no such arbitration clause could have been invoked by the petitioner and therefore, on this ground, the present petition is liable to be dismissed. He also submitted that with regard to the outstanding demand, which is so stated by learned counsel for the petitioner there is variance in the same in the notices as well as in the present petition, and when the petitioner is not very clear as to what amount is to be claimed from the respondent, the same cannot become a subject matter of arbitration, and therefore, on this ground also the present petition is liable to be dismissed.

5. I have heard the learned counsels for the parties.

6. The dispute resolution clause, as contained in Para No. 5 of the agreement, is reproduced hereunder:-

5. *Dispute Resolution*



A. If any dispute arises between the Parties in connection with this Agreement, the Parties shall endeavor, in good faith, to negotiate and settle such dispute amicably before referring the dispute for arbitration. A senior management Assignee or of each Party shall participate during such negotiation for settlement. Each Party shall be entitled to terminate these negotiations at any time by sending written notice to the other Party.

B. If no amicable settlement is arrived between the Parties within 30 days or if the negotiations are terminated in the manner provided hereinabove, the Parties shall refer the disputes to arbitration by a sole arbitrator mutually appointed by the parties and the same shall be resolved finally in accordance with provisions of the Arbitration and Conciliation Act, 1996 and any modifications thereto and re-enactments thereof from time to time.

C. The seat and venue of arbitration shall be Chandigarh, India. The language to be used in the arbitration proceeding shall be English. Each party to the arbitration shall be amenable to the jurisdiction of courts within the jurisdiction of which the seat of arbitration is situated for the purposes of compelling compliance with the above arbitration provisions and for the enforcement of arbitration award made by the



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Arbitrator or Arbitral Tribunal at the time of resolution of disputes referred.”

7. The existence of the agreement containing the arbitration clause, as well as the invocation of the said clause by issuance of notice dated 23.05.2025 (Annexure P-4), has not been disputed by learned counsel for the respondent. However, the objection raised by learned counsel for the respondent is that the petitioner has not exhausted the pre-arbitration mechanism with regard to referring the matter for amicable settlement, and on this ground, as per learned counsel for the respondent, the present petition under Section 11 of the Act is liable to be dismissed. The aforesaid objection raised by learned counsel for the respondent is not sustainable and is liable to be rejected in view of the fact that learned counsel for the petitioner has referred to a notice issued by the petitioner vide Annexure P-2 dated 02.04.2025, whereby a claim was raised and a reply to the same was also filed by the respondent vide Annexure P-3, denying the claim. The second objection raised by learned counsel for the respondent with regard to the variance in the amount is also misconceived and not sustainable, in view of the fact that the aforesaid amount mentioned in the earlier notice was subsequently clarified by the petitioner while issuing notice (Annexure P-4) under Section 21 of the Act. Even otherwise, this Court is of the considered view that such objections raised by learned counsel for the respondent are not sustainable for the purpose of consideration of the present petition under Section 11 of the Act at the stage of reference. It is



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settled law that the Court, while considering a petition under Section 11 of the Act, is not to hold a mini trial. It only has to see the *prima facie* existence of an arbitration clause and the invocation thereof-nothing more and nothing less. As to whether there was any variance in the amount is not within the scope of this Court. Further, it is also not within the scope of this Court to examine whether any pre-arbitration mechanism was adopted or not, which, otherwise, in the present case, has been adopted by issuance of notice vide Annexure P-2 by the petitioner to the respondent for the claim of the amount.

8. The Hon'ble Supreme Court in "**SBI General Insurance Company Limited Vs. Krish Spinning**", **2024 SCC Online SC 1754** and also another judgment of Hon'ble Supreme Court in "**Interplay between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899, In Re**" **(2024) 6 SCC 1** and therefore, the law is no longer *res integra*. The relevant portion of the aforesaid judgment of Hon'ble Supreme Court passed in **SBI General Insurance Company Limited's case (Supra)** is reproduced as under:-

"110. The scope of examination under Section 11(6-A) is confined to the existence of an arbitration agreement on the basis of Section 7. The examination of validity of the arbitration agreement is also limited to the requirement of formal validity such as the requirement that the agreement should be in writing.



111. The use of the term ‘examination’ under Section 11(6-A) as distinguished from the use of the term ‘rule’ under Section 16 implies that the scope of enquiry under section 11(6-A) is limited to a prima facie scrutiny of the existence of the arbitration agreement, and does not include a contested or laborious enquiry, which is left for the arbitral tribunal to ‘rule’ under Section 16. The prima facie view on existence of the arbitration agreement taken by the referral court does not bind either the arbitral tribunal or the court enforcing the arbitral award.

112. The aforesaid approach serves a two-fold purpose – firstly, it allows the referral court to weed out nonexistent arbitration agreements, and secondly, it protects the jurisdictional competence of the arbitral tribunal to rule on the issue of existence of the arbitration agreement in depth.

113. Referring to the Statement of Objects and Reasons of the Arbitration and Conciliation (Amendment) Act, 2015, it was observed in In Re: Interplay (supra) that the High Court and the Supreme Court at the stage of appointment of arbitrator shall examine the existence of a prima facie arbitration agreement and not any other issues. The relevant observations are extracted hereinbelow:

“209. The above extract indicates that the Supreme



Court or High Court at the stage of the appointment of an arbitrator shall “examine the existence of a prima facie arbitration agreement and not other issues”. These other issues not only pertain to the validity of the arbitration agreement, but also include any other issues which are a consequence of unnecessary judicial interference in the arbitration proceedings. Accordingly, the “other issues” also include examination and impounding of an unstamped instrument by the referral court at the Section 8 or Section 11 stage. The process of examination, impounding, and dealing with an unstamped instrument under the Stamp Act is not a timebound process, and therefore does not align with the stated goal of the Arbitration Act to ensure expeditious and time-bound appointment of arbitrators.

[...]

(Emphasis supplied)

114. In view of the observations made by this Court in In Re: Interplay (supra), it is clear that the scope of enquiry at the stage of appointment of arbitrator is limited to the scrutiny of prima facie existence of the arbitration agreement, and nothing else. For this reason, we find it difficult to hold that the observations made in Vidya Drolia (supra) and adopted in



NTPC v. SPML (supra) that the jurisdiction of the referral court when dealing with the issue of “accord and satisfaction” under Section 11 extends to weeding out ex-facie non-arbitrable and frivolous disputes would continue to apply despite the subsequent decision in In Re: Interplay (supra).

115. The dispute pertaining to the “accord and satisfaction” of claims is not one which attacks or questions the existence of the arbitration agreement in any way. As held by us in the preceding parts of this judgment, the arbitration agreement, being separate and independent from the underlying substantive contract in which it is contained, continues to remain in existence even after the original contract stands discharged by “accord and satisfaction”

116. The question of “accord and satisfaction”, being a mixed question of law and fact, comes within the exclusive jurisdiction of the arbitral tribunal, if not otherwise agreed upon between the parties. Thus, the negative effect of competence-competence would require that the matter falling within the exclusive domain of the arbitral tribunal, should not be looked into by the referral court, even for a prima facie determination, before the arbitral tribunal first has had the opportunity of looking into it.”

9. The relevant paragraphs of the aforesaid judgment passed in



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Interplay between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899, In Re Case (Supra) are also reproduced as under:-

“120. In view of the above discussion, we formulate our conclusions on this aspect. First, the separability presumption contained in Section 16 is applicable not only for the purpose of determining the jurisdiction of the Arbitral Tribunal. It encapsulates the general rule on the substantive independence of an arbitration agreement. Second, parties to an arbitration agreement mutually intend to confer jurisdiction on the arbitral tribunal to determine questions as to jurisdiction as well as substantive contractual disputes between them. The separability presumption gives effect to this by ensuring the validity of an arbitration agreement contained in an underlying contract, notwithstanding the invalidity, illegality, or termination of such contract. Third, when the parties append their signatures to a contract containing an arbitration agreement, they are regarded in effect as independently appending their signatures to the arbitration agreement. The reason is that the parties intend to treat an arbitration agreement contained in an underlying contract as distinct from the other terms of the contract; and Fourth, the validity of an arbitration agreement, in the face of the



invalidity of the underlying contract, allows the Arbitral Tribunal to assume jurisdiction and decide on its own jurisdiction by determining the existence and validity of the arbitration agreement. In the process, the separability presumption gives effect to the doctrine of competence-competence.

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165. The legislature confined the scope of reference under Section 11(6-A) to the examination of the existence of an arbitration agreement. The use of the term "examination" in itself connotes that the scope of the power is limited to a prima facie determination. Since the Arbitration Act is a self-contained code, the requirement of "existence" of an arbitration agreement draws effect from section 7 of the Arbitration Act. In Duro Felguera (supra), this Court held that the referral courts only need to consider one aspect to determine the existence of an arbitration agreement - whether the underlying contract contains an arbitration agreement which provides for arbitration pertaining to the disputes which have arisen between the parties to the agreement. Therefore, the scope of examination under Section 11(6-A) should be confined to the existence of an arbitration agreement on the basis of Section 7. Similarly, the validity of an arbitration



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agreement, in view of Section 7, should be restricted to the requirement of formal validity such as the requirement that the agreement be in writing. This interpretation also gives true effect to the doctrine of competence-competence by leaving the issue of substantive existence and validity of an arbitration agreement to be decided by arbitral tribunal under Section 16. We accordingly clarify the position of law laid down in Vidya Drolia (supra) in the context of Section 8 and section 11 of the Arbitration Act.

166. The burden of proving the existence of arbitration agreement generally lies on the party seeking to rely on such agreement. In jurisdictions such as India, which accept the doctrine of competence-competence, only prima facie proof of the existence of an arbitration agreement must be adduced before the referral court. The referral court is not the appropriate forum to conduct a minitrial by allowing the parties to adduce the evidence in regard to the existence or validity of an arbitration agreement. The determination of the existence and validity of an arbitration agreement on the basis of evidence ought to be left to the arbitral tribunal. This position of law can also be gauged from the plain language of the statute.”

10. In view of the aforesaid facts and circumstances, this court is



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of the considered view that both the conditions for appointment of an arbitrator under Section 11 of the Act at the reference stage are satisfied.

11. Consequently, the present petition is allowed. Hon'ble Mr. Justice Satish Kumar Mittal, Chief Justice (Retired), resident of House No.1545, Sector 7-C, Chandigarh. Mobile No. 9780008107, Email: jsatishkumarmittal@gmail.com is nominated as the Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory provisions including Section 12 of the Act.

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

13. Fee shall be paid to learned Arbitrator in accordance with the Fourth Schedule of the Arbitration Act, as amended.

14. Learned Arbitrator is also requested to complete the proceedings as per the time limit prescribed under Section 29-A of the Act.

15. A request letter alongwith a copy of the order be sent to Hon'ble Mr. Justice Satish Kumar Mittal, Chief Justice (Retired).

16.03.2026
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(JASGURPREET SINGH PURI)
JUDGE

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