



ARB-569-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

ARB-569-2024 (O&M)
Date of Decision: 12.03.2026

Sonika

.... Applicant

Versus

M/s Genesis Infractech Private Limited and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. B.K. Bagri, Advocate
for the applicant.

Mr. Rahul Sangwan, Advocate,
for the respondents.

JASGURPREET SINGH PURI, J. (ORAL)**CM-5339-CII-2026**

For the reasons mentioned in the application, the same is allowed and the Sub-Lease Deed dated 19.02.2020 registered at office of Sub-Registrar, Bhiwani as Annexure R-1 is taken on record, subject to all just exceptions.

Main Case:

1. The present application has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') praying for appointment of a Sole Arbitrator to adjudicate upon the disputes which have arisen between the parties.

2. Learned counsel for the applicant submitted that a Memorandum of Understanding i.e. MoU was executed between the applicant and respondents vide Annexure P-1 dated 18.10.2019 and the subject matter of aforesaid MoU pertains to the usage of land intended for

construction of “Genesis Mall” on the land situated in Village Khanpur, Tehsil Tijara, Bhiwadi-Alwar Bye Pass Road, Bhiwadi, District Alwar (Rajasthan). Respondent-M/s Genesis Infratech Pvt. Ltd. had been granted rights over the said land by the Urban Improvement Trust, Bhiwadi, Rajasthan. Thereafter, the respondents entered into the aforesaid Memorandum of Understanding (MoU) with the applicant for a sub-lease to utilize the Mall. Subsequently, a Sub Lease Deed was executed between the applicant and the respondents on 19.02.2020, which has also been attached with the present application as Annexure P-2. He further submitted that the aforesaid MoU contains an arbitration clause, which provides that any dispute in the interpretation of any clause of this MoU shall be referred to arbitration of a Sole Arbitrator to be nominated by the Developer. Since the dispute arose between the parties, the applicant issued a legal notice dated 30.09.2024 (Annexure P-4) invoking the aforesaid arbitration clause contained in the Memorandum of Understanding (MoU). However, the same was not accepted by the respondent. Consequently, the present application has been filed under Section 11 of the Act for appointment of an independent Sole Arbitrator.

3. On the other hand, learned counsel for the respondents, while advancing his arguments and referring to the reply filed on behalf of the respondents, submitted that the present application is liable to be dismissed on the ground that there does not exist any arbitration clause at all. In this regard, he has referred to the Sub Lease Deed dated 19.02.2020 (Annexure P-2) executed between the applicant and the respondents, which specifically provides in Clause 5, sub-clauses (d) & (f) that terms and conditions contained in any documents, which is executed prior to this Sub Lease Deed

shall become null and void on execution and registration of the present Sub Lease Deed and present Lease Deed will supersede all the previous documents executed between the parties. He further submitted that the aforesaid Memorandum of Understanding (MoU) referred to by learned counsel for the applicant, stands superseded and rendered null and void upon execution of the Sub Lease Deed.

4. Learned counsel further submitted that this Sub Lease Deed does not contain any arbitration clause at all and therefore, the matter cannot be referred to the Arbitrator in the absence of any arbitration clause.

5. Learned counsel also submitted that the reference made by learned counsel for the applicant to the Memorandum of Understanding (MoU) is of no avail to the applicant as the said MoU is no longer in existence and has been superseded by the Sub Lease Deed which contains no arbitration clause. Accordingly, the present application may be dismissed.

6. I have heard learned counsels for the parties.

7. The applicant has annexed a Memorandum of Understanding (MoU) along with the present application as Annexure P-1. Annexure P-2 is the Sub Lease Deed. The property belongs to the Urban Improvement Trust, Bhiwadi, Rajasthan and rights therein were given to the respondent-M/s Genesis Infratech Pvt. Ltd. It appears from the Memorandum of Understanding (MoU) that rights were given by the applicant to the respondents for usage of the land and the property as a lessee. The aforesaid MoU is dated 18.10.2019 whereas the Sub Lease Deed is dated 19.02.2020, which is subsequent to the MoU and it contains all the terms and conditions. Clause No.5(d), (e) & (f) of the aforesaid Sub Lease Deed, specifically provide as follows:-

“5. PROVIDED ALWAYS AND IT IS HEREBY EXPRESSLY AGREED AND DECLARED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

(a) to (c) xx xx xx xx

(d) *The terms, conditions and covenants contained in the any documents executed prior to this Sub lease Deed shall become null and void on execution & registration of the present Sub lease Deed and present Lease deed will supersedes all the previous documents executed between the parties.*

(e) *The terms, conditions and stipulations contained in this deed shall prevail and supersedes over the Builder-Buyer Agreement or any other documents executed prior to this Sub Lease Deed.*

(f) *The said Demised premises i.e. shop in “Genesis Mall” is situated at Bhiwadi and the Court at Tijara/Alwar has only jurisdiction to entertain any dispute arising out of this Sub-lease deed.”*

8. The parties to the Memorandum of Understanding (MoU) and that of Sub Lease Deed and subject matter i.e. property, in question, are the same. A perusal of the aforesaid Clause No.5(d), (e) & (f) of the final Sub Lease Deed reveals that any prior document executed between the parties shall become null and void and the Sub Lease Deed shall supersede all previous documents and this has been so stated in so many words as aforesaid. It is an admitted position by both the learned counsels for the parties that in the aforesaid Sub Lease Deed, there is no clause of any arbitration at all.

9. The reliance placed by learned counsel for the applicant on the previous document i.e. the Memorandum of Understanding (MoU), which contains an arbitration clause is of no avail to the applicant. This is because

the MoU stands superseded on the face of it by the Sub Lease Deed, which does not contain any arbitration clause. Both learned counsels for the parties have admitted this position.

10. In view of the above, this Court is of the considered view that since there is no arbitration clause in Sub Lease Deed (Annexure P-2) which has been executed between the parties, no Arbitrator can be appointed by this Court under Section 11 of the Act. Consequently, the present application is hereby dismissed.

12.03.2026

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |