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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ARB-768-2025 (O&M)
Date of Decision: 11.02.2026

M/S SAROTAM CONSTRUCTION COMPANY

....Petitioner(s)

Versus

MUNICIPAL COUNCIL THANESAR AND ANOTHER

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vivek Aggarwal, Advocate, for the petitioner.

Mr. Sukhdeep Parmar, Advocate, for respondent No.1.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 11 (5) and (6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') praying for appointment of an independent Arbitrator to adjudicate the disputes and differences which have arisen between the parties pertaining to an agreement entered into between the parties.

2. Learned counsel appearing on behalf of the petitioner submitted that there was an agreement (Annexure P-1) between the parties wherein there exists a valid arbitration clause at Clause 24, which provides that in case of any dispute between the parties, the matter shall be referred to the Superintending Engineer of the Circle of the Buildings and Road Branch of the Public Works Department. He submitted that a serving Superintending Engineer of the respondent cannot be appointed in view of the provisions of

Section 12(5) of the Act and also in view of the judgment of Hon'ble



Supreme Court in *Perkins Eastman Architects DPC and another versus HSSC (India) Limited, (2020) 20 SCC 760*. He further submitted that after the dispute had arisen between the parties, the petitioner invoked the aforesaid arbitration clause by issuing notice vide Annexure P-13 dated 11.10.2025 but no response was received from the respondents and therefore, the present application has been filed seeking appointment of an independent Sole Arbitrator for adjudication of dispute.

3. On the other hand, learned counsel appearing on behalf of respondent No.1 has filed reply, which is taken on record and while referring to the reply, he submitted that there is no dispute with regard to the existence of the aforesaid arbitration clause in the agreement and the invocation thereof by way of issuance of the notice (Annexure P-13). He submitted that respondent No.1 has got two objections. Firstly, the claim is time barred and secondly, the entire payment due to the petitioner has already been released and therefore, there is no need for appointment of an Arbitrator. In this regard, he submitted that petitioner had earlier filed a writ petition before this Court, which was disposed of vide order dated 02.06.2017 (Annexure P-5), with a direction to the State to consider the representation of the petitioner for release of the balance payment within a period of three months. He submitted that in pursuance of the aforesaid order, the representation of the petitioner was duly considered and decided by passing an order and therefore, the present petition is not maintainable in view of the aforesaid reasons.

4. I have heard the learned counsel for the parties.

5. The *prima facie* existence of the arbitration clause, the agreement between the parties and invocation thereof by issuance of notice



are not in dispute in the present case. Two objections were raised by the learned counsel for respondent No.1. The first objection is that the claim of the petitioner is time barred. This Court is of the considered view that the said objection is not sustainable since at the time of reference stage under Section 11 of the Act, the aforesaid issue cannot be decided because the same can be decided only by the learned Arbitrator at an appropriate stage.

6. So far as the second objection raised by the learned counsel for respondent No.1 that the petitioner had earlier filed a writ petition before this Court, which was disposed of vide order dated 02.06.2017 (Annexure P-5) directing the respondents to decide the representation of the petitioner is concerned, the same also cannot become an embargo for appointment of an Arbitrator under Section 11 of the Act. Therefore, this objection is also not sustainable. Even if any order was passed by the respondents in support of their contention, it is not a case that the petitioner had admitted all the claims and therefore, this also itself is not within the scope of this Court while considering a petition under Section 11 of the Act, which otherwise may be a relevant factor at an appropriate stage before the learned Arbitrator, if at all so raised.

7. In view of the aforesaid facts and circumstances, the present petition is allowed. Hon'ble Mr. Justice Vivek Puri, a former Judge of this Court, resident of House No.237, Sector 16A, Chandigarh, Mobile No. 8558800190, Email ID: vivekpuri1962@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.



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

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

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

11. A request letter alongwith a copy of the order be sent to Hon'ble Mr. Justice Vivek Puri, a former Judge of this Court.

11.02.2026

(JASGURPREET SINGH PURI)

rakesh

JUDGE

Whether speaking

:

Yes/No

Whether reportable

:

Yes/No