



ARB-273-2022 (O&M) & ARB-305-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

249 (2 cases)

ARB-273-2022 (O&M)

Date of Decision: 12.12.2024

M/s Kama Ayurveda Private Limited

...Applicant

Versus

Safiri Retail Private Limited

...Respondent

With

M/s Kama Ayurveda Private Limited

ARB-305-2022 (O&M)

...Applicant

Versus

Safiri Retail Private Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Tushar Sharma, Advocate for the applicant

JAGMOHAN BANSAL, J. (Oral)

1. As common issues are involved in both the captioned applications, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from *ARB-273-2022*.
2. Through instant application under Section 11 of the Arbitration and Conciliation Act, 1996 (for short '1996 Act'), the applicant is seeking appointment of an Arbitrator.
3. Notice of motion was issued on 22.07.2022. Thereafter, multiple times notice was sent to the respondent, however, service could not be effected. Left with no other option, the applicant sought permission to serve the respondent through publication well as other alternative modes.



4. As per office report, notice has been affixed at the place of respondent. The applicant has further got published notice in two newspapers having widespread circulation in the area of respondent.

5. The matter is pending before this Court since 2022 and the respondent is not coming forward to join the proceeding. There seems no reason to keep the matter in abeyance especially when the prayer in the application is confined to appointment of an Arbitrator who ultimately would adjudicate rights and liabilities of the parties. Thus, this Court is left with no option except to adjudicate the case.

6. The parties entered into Agreement dated 19.09.2019 (Annexure P-2). A dispute erupted between the parties. There is an arbitration clause in the aforesaid agreement. The applicants served legal notice dated 30.03.2022 (Annexures P-9) upon the respondent invoking arbitration clause of the agreement, however, the respondent did not act upon the said notice within the prescribed period.

7. Conditions to invoke power conferred by Section 11(6) of 1996 Act stand satisfied, thus, I hereby appoint a sole Arbitrator to adjudicate the dispute between the parties.

8. Mr. V.K. Gupta, District & Sessions Judge (Retired), residing at House No. 70, Punjab Judges Enclave, Sector 77, Mohali- 140308, Mobile No. 7696572387 is hereby appointed as a Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements. The learned Arbitrator is requested to comply with mandate of Section 12 of 1996 Act before proceeding further.



9. 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 shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.

11. The Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the 1996 Act.

12. Needless to mention, parties would be at liberty to raise all the claims/defences/counter claims/pleas before the Arbitrator. Any observation made hereinabove will not be binding on the learned Arbitrator.

13. Pending application(s), if any, shall stand disposed of.

14. A request letter along with copy of this order be sent to Mr. V.K. Gupta.

(JAGMOHAN BANSAL)
JUDGE

12.12.2024

Mohit Kumar

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