

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDI GARH

Arbitration Case No. 228 of 2015 (O&M)
DATE OF DECISION: 01.02.2019

Honda Motorcycle and Scooter India Pvt. Ltd.

.... Applicant

versus

Sri Kanakadurga Automobiles Limited

..... Respondent

CORAM: - HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE

Present: Mr. Amit Sharma, Advocate for the applicant

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KRISHNA MURARI, CHIEF JUSTICE (Oral):

Cause shown for non-appearance is sufficient.

Order dated 14.12.2018 dismissing the main application for non-prosecution stands recalled and application restored to its original number and position.

Arbitration Case No. 228 of 2015:

Despite substituted service through publication in newspapers when the respondent did not put in appearance, vide order dated 26.10.2018, the service was deemed to be sufficient.

I have heard learned counsel for the applicant.

Undisputedly, there exists an arbitration agreement between the parties containing an arbitration clause which provides that both the parties to the dispute shall nominate their respective arbitrators and the two arbitrators shall thereafter nominate a third arbitrator. Clause 28.3 further provides that in case the other party does not respond to the notice or fails to appoint its nominee arbitrator within 15 days of receipt of the

notice the person nominated by the party serving the notice shall commence the arbitration proceedings as the sole arbitrator.

As per the terms of the agreement, the seat of the arbitration is to be New Delhi.

Admittedly, in the case in hand, though arbitrator was initially nominated by the respondent but both the arbitrators failed to nominate a third arbitrator and never entered into a reference. Subsequently, despite various letters and reminders by the applicant, the respondent failed to respond. In these circumstances, the applicant has approached this Court by making the present application under section 11 of the Act.

In the circumstances, I hereby appoint Justice Rekha Sharma, former Judge of the Delhi High Court, to function as the sole Arbitrator in the matter. Fees and other incidental expenses shall be settled by the parties with the Learned Arbitrator.

Application accordingly stands disposed of.

01.02.2019
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(KRISHNA MURARI)
CHIEF JUSTICE

NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO