

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

ARB-62-2020 (O&M)
Date of Decision:-4.8.2023

Hindustan Colas Private Limited ... Petitioner

Versus

M/s Tarmat Limited and another ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Aman Arora, Advocate for the petitioner.

Mr. G.S. Jagpal, Advocate for respondent No.1.

Respondent No.2 – *ex parte*.

GURVINDER SINGH GILL, J. (Oral)

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (in short hereinafter referred to as 'the Act') for appointment of an Arbitrator.
2. There is no dispute with regard to entering the parties into tripartite agreement as well as to make the payment vide clause 2 (a) and (b) of the agreement. Respondent No.2 was guarantor of respondent No.1 who has to make the payment within seven days of receipt of 70% material and in case respondent No.1 failed to make the payment then respondent No.2 being guarantor was bound to make the entire payment to petitioner within 40 days of receipt of the complete material at site.

3. Clause - 7 of the agreement dated 12.6.2017 (Annexure P-1) provides for dispute resolution through Arbitration. The clause also provides that the proceedings shall be held at Chandigarh.
4. A dispute having arisen, the petitioner served notice dated 12.4.2018 (Annexure P-4). On failure of respondents to do the needful, the instant petition is filed.
5. Although respondent No.1 has filed reply but a perusal of same does not disclose any ground on which the instant petition is sought to be opposed. Rather learned counsel representing the petitioner as well as respondent No.4 fairly submitted that they have instructions from their respective clients that this Court may appoint any independent and impartial Arbitrator to decide the disputes between the parties. Respondent No.2 has already been proceed against *ex parte*.
6. Accordingly, Justice M.S. Sullar (Retd.) is appointed as the sole Arbitrator. However, such appointment would be subject to the declaration to be made by Justice M.S. Sullar (Retd.) under Section 12 of the Act with regard to his independence and impartiality to settle the disputes between the parties.
7. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended or as may be mutually settled by the parties and the Arbitrator.
8. As per agreement expressed by learned counsel for the parties, for the sake of the convenience of their respective clients, as also of the Arbitrator, the venue for the Arbitration shall be at Arbitration Centre, Chandigarh or at any other place convenient to all concerned.

9. After seeking convenience of the Arbitrator, the parties are directed to appear before him on 5.9.2023 at 11:00 A.M. or any other date suitable to all concerned.

10. A copy of this order be sent to the appointed Arbitrator at the given address :

Kothi No. 220, Sector 25, Panchkula.

Mobile No.97800-08105.

11. The petition is accordingly disposed of in the above mentioned terms.

4.8.2023

Pankaj

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No