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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

221/1

ARB-222-2023

Date of Decision: 27.08.2025

Shiva Medical Diagnostic Private Limited

...Applicant

Versus

Amcare Hospital

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Ishan Bhardwaj, Advocate for the applicant

Mr. Munish Kapila, Advocate for the respondent

JAGMOHAN BANSAL, J. (Oral)

1. Through instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short '1996 Act'), the applicant is seeking appointment of an Arbitrator.
2. The parties entered into Service Agreement dated 10.11.2016. As per said agreement, the applicant had to install Radiology Lab at the premises of the respondent. The applicant installed few machines at the premises of the respondent. A dispute erupted between the parties. The applicant is invoking arbitration agreement.
3. Learned counsel for the respondent, at the outset, submits that agreement dated 10.11.2016 was terminated vide subsequent agreement dated 26.03.2019. The final payment was settled between the parties. It was applicant who agreed and actually paid a sum of ₹8 Lakhs to the respondent



towards the damages. As agreement stands terminated, there is no question of appointment of Arbitrator.

4. Faced with this, learned counsel for the applicant submits that the applicant was compelled to execute Termination Agreement. It was not voluntary. As per Clause 11 of the agreement, Arbitrator may be appointed despite termination of agreement.

5. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

6. There is no dispute with respect to execution of Arbitration Agreement. The dispute remains with respect to termination of agreement dated 10.11.2016. The applicant did not place on record Termination Agreement dated 26.03.2019 and respondent has placed the same on record by way of Annexure R-1. In the Termination Agreement, it has been clearly agreed that agreement dated 10.11.2016 stands terminated. The matter was mutually settled and the applicant agreed to pay ₹8 Lakhs to the respondent. It was applicant who had agreed to pay ₹8 Lakhs to the respondent. The said agreement was executed on 26.03.2019 whereas notice under Section 21 of 1996 Act was served on 19.05.2021.

7. The applicant is relying upon Clause 11.3 of the agreement which reads as: -

“11.3 All payments becoming due and payable to the Parties as on the date of termination, shall be paid to the Parties under the terms of this Agreement not withstanding the termination thereof.”



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From the perusal of said clause, it is evident that outstanding payment despite termination of agreement may be recovered. The parties have terminated agreement and any amount due or payable on the date of termination may be recovered. As per Termination Agreement, it is applicant who had to pay ₹8 Lakhs to respondent, thus, Clause 11.3 of the agreement cannot be relied upon to hold that Arbitration Agreement subsists. The parties are free to enter into any legal agreement. The parties herein have entered into arbitration agreement which was later on terminated. The termination agreement was not subject to any condition.

8. In the wake of above discussion and findings, this Court is of the considered opinion that present application being bereft of merit deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

27.08.2025

Mohit Kumar

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