

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDI GARH

Arbitration Case No. 329 of 2017 (O&M)
DATE OF DECISION: 25.01.2019

M/s Deepak Builders

.... Applicant

versus

Punjab Freedom Movement Memorial Foundation and others

..... Respondents

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

Present: Dr. Ashwini Kumar Bansal, Advocate
for the applicant
Shri Dinesh Gupta, Advocate for the respondents

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KRISHNA MURARI, CHIEF JUSTICE (Oral):

This is an application under section 11 of the Arbitration and Conciliation Act, 1996, for appointment of an Arbitrator.

The parties had, admittedly, entered into an agreement. It is not disputed that clause 67 thereof contains an arbitration agreement which reads as under: -

"67. ARBITRATION

The procedure for arbitration will be as follows:

(a) In case of any dispute or difference arising between the Employer and the Contractor relating to any matter arising out of or connected with this agreement, such disputes or differences shall be settled in accordance with the provisions of Arbitration and Conciliation Act, 1996.

The parties shall make efforts to agree on a Sole Arbitrator and only if such an attempt does not succeed, a Arbitral Tribunal consisting of 3 arbitrators, one nominee arbitrator each to be appointed by the Employer and the Contractor and the third arbitrator to be chosen by the two arbitrators so appointed by the parties to act as Presiding Arbitrator shall be considered. In such a situation, the party invoking the arbitration clause shall first provide the name of its nominee arbitrator and thereafter the other party shall provide the name of its nominee arbitrator. In case of failure of the two arbitrators appointed by the parties to reach upon a consensus within a period of 30 days from the appointment of the arbitrator appointed subsequently, the Presiding Arbitrator shall be appointed by the Secretary to Government of Punjab, Department of Cultural Affairs."

Equally undisputed is the fact that both the parties have failed to agree to a sole Arbitrator and, thus, in accordance with the terms of the agreement, a panel of arbitrators is to be appointed.

Applicant has nominated Shri A.K. Garg, retired Superintending Engineer, PWD (B&R), Haryana as its Arbitrator and

the respondents have nominated Shri K. B. Lal Singhal , retired Chief Engineer, PWD (B&R), Haryana as their Arbitrator.

Let both the aforesaid two retired officers, as nominated by both the parties, be appointed on the panel of Arbitrators.

Learned counsel for both the parties have no objection in case this Court appoints the third Arbitrator to function as Umpire/Presiding Arbitrator.

In view of the above, I hereby appoint Justice M. S. Sullar, a retired Judge of this Court (Address: Kothi No. 220, Sector 25, Panchkula), as the Presiding Arbitrator/Umpire.

Application accordingly stands disposed of.

25.01.2019
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(KRISHNA MURARI)
CHIEF JUSTICE

NOTE:

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