
(1994) 07 DEL CK 0074
In the Delhi High Court
Case No : Suit No. 3539 of 1991

India Lease Development Limited

APPELLANT

Vs

Ved Parkash

RESPONDENT

Date of Decision : 01-07-1994

Acts Referred:

Citation : (1994) 2 ARBLR 198 : (1994) 55 DLT 147

Hon'ble Judges : J.K. Mehra, J

Bench : Single Bench

Advocate : G.S. Sistani, for the Appellant;

Judgement

J.K. Mehra, J.

(1) This is a petition u/s 20 of the Arbitration Act filed by the petitioner-company against the respondents, praying for a direction for filing the arbitration agreement in Court and referring the disputes between the parties to the named Arbitrator, as mentioned in the said agreement.

(2) During the pendency of the petition, respondent No.2, who was imp leaded as a Guarantor, died and the petitioner had given up the claim against the said respondent No.2. Respondent No.2 could not be served with summons in the ordinary way. As such, he was ordered to be served in the substituted manner. Notice of the petition was thus served on the respondent No.1 by way of a proclamation in the daily "Statesman" in the issue of 24.4.1993. Despite service, none appeared on behalf of the respondent. As such, the respondent was proceeded against ex-parte and the petitioner was allowed to lead ex-parte evidence on affidavits.

(3) The petitioner has filed the affidavit of Shri Ajay Chand, constituted Attorney of the petitioner company in proof of its claim and the averments contained in the petition. The said deponent has proved the general power of attorney in his favor to file, institute the present petition. A true photocopy of the general power of attorney is Exhibit P.W.I/I.

(4) The petitioner entered into a hire purchase agreement with respondent No.1 for hiring a motor vehicle vide an agreement dated 3.2.1989. The said agreement is Exhibit P.W.I/2. It is alleged by the petitioner that the petitioner has failed to comply with the terms of the agreement and accordingly a notice dated 19.10.90 was sent to both the respondents, which is Exhibit P.W.I/3. Exhibit P.W.I/4 is the statement of account, showing the amount due against the respondents. Clause-VI (a) provides that all disputes and differences between the parties in respect of or arising under the aforesaid hire purchase agreement shall be decided by the sole arbitrator of Shri Shashi Vansh Bahadur, Advocate and Shri Surya Kant Singla, Advocate as alternate Arbitrator.

(5) NON-PAYMENTS of Installments and the notices to the defendants claiming certain rights under the said agreement do amount to disputes under the said agreement.

(6) In the light of the above, I find that the petitioner has proved the existence of the disputes between the parties and the existence of the arbitration agreement. There has been no opposition to the present petition despite service. Accordingly, I allow the petition, directing the petitioner to file the arbitration agreement in the Court and refer the disputes between the parties to said named Arbitrator Shri Shashi Vansh Bahadur, Advocate, Delhi as the sole Arbitrator, who shall publish his award within four months from the date he enters upon the reference. Suit stands disposed of in the above terms. There will be no order as to costs.