
(1994) 07 DEL CK 0034
In the Delhi High Court
Case No : Suit No. 1146A of 1992

M.G.F. (India) Ltd.

APPELLANT

Vs

Vijender Singh and Another

RESPONDENT

Date of Decision : 01-07-1994

Acts Referred:

Citation : (1994) 2 ARBLR 181 : (1994) 55 DLT 146

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

Bench : Single Bench

Advocate : S.K. Mehra and Mamta Mehra, 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 Shri Inderjit Gulati, the Arbitrator named in the said agreement.

(2) Notices of the petition were served on 24.9.1993. Despite service, none appeared on behalf of the respondents. As such, they were proceeded against ex-parte and the petitioner was directed to lead ex-parte evidence on affidavits. Accordingly, the petitioner filed the affidavit of Shri Rajiv Gupta, Director In charge and constituted attorney of the petitioner company in support of the averments contained in the petition. The said deponent has proved and placed on record photocopies of the certificate of incorporation of the petitioner-company, which is Exhibit P.W.1/1. He has further proved the general power of attorney in his favor to file, institute the present petition. A photocopy of the said general power of attorney is Exhibit P.W.I /2.

(3) The petitioner entered into a hire purchase agreement dated 25.4.1989 with respondent No. 1 in respect of a motor vehicle bearing Engine No-616969032440, Chassis No.616 Fd 323079, Registration No. Dna 5358. Respondent No.2 has signed the said agreement as a guarantor guaranteeing the

repayment of the installments as agreed upon in the agreement. The said agreement is Exhibit P.W.I/3. It is alleged by the petitioner that the petitioner has failed to comply with the terms of the agreement and accordingly a notice dated 24.8.1991 was sent to both the respondents, which is Exhibit P.W.I/4. Exhibit P.W.I/5 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 the aforesaid hire purchase agreement shall be decided by the sole arbitration of Shri Inderjit Gulati, Advocate and Shri Shashi Vansh Bahadur, Advocate as alternate Arbitrator.

(4) In the light of the above, I am satisfied 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 Shri Inderjit Gulati, 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.