
(2020) 09 UK CK 0039

In the Uttarakhand High Court

Case No : Arbitration Application No. 18 Of 2016

M/s Gold Plus Glass Industry Ltd

APPELLANT

Vs

M/s Indian Oil Corporation Ltd

RESPONDENT

Date of Decision : 17-09-2020

Acts Referred:

Arbitration And Conciliation Act, 1996 — Section 11(6), 11(6A), 11(8)

Citation : (2020) 09 UK CK 0039

Hon'ble Judges : Ravi Malimath, J

Bench : Single Bench

Advocate : Vinod Tiwari, V.K. Kohli, I.P. Kohli

Final Decision : Disposed Of

Judgement

Ravi Malimath, J

1. The petitioner is before this Court, in this petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short "the Act"), seeking appointment of a sole Arbitrator to resolve the disputes that have arisen between the parties.

2. Learned counsel for the petitioner contends that an Agreement dated 17.11.2014 was entered into between the petitioner and the respondent. In respect of the said agreement, certain disputes have arisen between the parties and as such the petitioner claims that the sole Arbitrator be appointed to resolve the disputes that have arisen between the parties. In that regard, Clause 11 of the Agreement dated 17.11.2014, which relates to Arbitration, is referred to by the learned counsel for the petitioner. The said clause provides for settlement of disputes through Arbitrator. Clause 11 of the Agreement dated 17.11.2014 reads as under :-

11. ARBITRATION

That in case of any dispute or difference between the parties arising out of concerning this order or an matter herein contained including the respective

rights and obligation of the parties hereunder on the meaning and construction of any terms and conditions herein or any other dispute or difference whatsoever damages arising out of and/or relating to this order, the matter will be referred to a sole arbitrator who will be nominated by both the parties with mutual consent.

The arbitration proceedings shall be in accordance with the Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof and the rules made there under and for the time being enforced shall applied to arbitration proceeding under this clause.

The Arbitration proceedings shall be held only at Haridwar.

The Civil Courts at Haridwar only have the exclusive jurisdiction in respect of this contract and all matters arising thereof and no other court will have jurisdiction in connection with the disputes or matters arising out of and/or relating to this contract.

3. The respondent has filed the counter affidavit. In the counter affidavit, filed by the respondent, the fact that such an arbitration clause exists, has been admitted.

4. Under Section 11 (6A) of the Act, the High Court, while considering any application under Section 11(6) thereof, must confine its examination only to the existence of an Arbitration agreement. Since the existence of an arbitration agreement has not been disputed by the respondent, and has in fact been admitted by them in the counter affidavit, this application must be ordered, and the dispute referred to arbitration.

5. When this Court asked learned counsels for both the parties to suggest a common name of a person who could be appointed as an Arbitrator, both Shri Vinod Tiwari, learned counsel for the petitioner and Shri V.K. Kohli, learned senior counsel for the respondent, would submit that Ms. Indira Ashish, Retd. District Judge R/o 34-D, Race Course, Opposite Police Line Gate No. 1, Dehradun, may be appointed as the sole Arbitrator.

6. As learned counsels on either side are in agreement, Ms. Indira Ashish, Retd. District Judge R/o 34-D, Race Course, Opposite Police Line Gate No. 1, Dehradun, is appointed as an Arbitrator after her disclosure in writing is obtained in terms of Section 11(8) of the Act; and only after receipt thereof shall her appointment, as an Arbitrator, come into force.

7. On her giving consent to arbitrate the disputes between the parties, Ms. Indira Ashish, Retd. District Judge R/o 34-D, Race Course, Opposite Police Line Gate No. 1, Dehradun, shall enter reference, and shall pass an award at the earliest preferably within a period of six months from the date on which she enters reference. The learned Arbitrator shall fix her fees in consultation with both the parties.

8. The arbitration application is disposed off accordingly.