
(2014) 04 AHC CK 0079

In the Allahabad High Court

Case No : Civil Misc. Arbitration Application No. 5 of 2011

United India Insurance Co. Ltd.

APPELLANT

Vs

Himgiri Industries

RESPONDENT

Date of Decision : 07-04-2014

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 11, 12, 13, 34

Citation : (2014) 6 ADJ 209 : (2014) 104 ALR 661 : (2014) 6 AWC 5661

Hon'ble Judges : Pankaj Mithal, J

Bench : Single Bench

Advocate : Saurabh Srivastava, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Pankaj Mithal, J.—The petition was filed on 11.1.2011 and since then it has been listed number of times, but no one has turned up to press this petition. It has been adjourned at least about ten times and on several occasion due to illness of learned Counsel for the petitioner.

Today, also no one stands up to argue it.

In view of the above, I have gone through the petition and its annexures.

This petition u/s 11 of the Arbitration and Conciliation Act 1996 has been filed with a prayer to appoint a new arbitrator as there are justifiable doubts as to his independence and impartiality of the arbitrator who is seized with the matter.

2. The petitioner had appointed an arbitrator on 11.5.2010 for settling the dispute between the parties. The Arbitrator has so appointed entered into arbitration. It appears that the petitioner has lost faith in the Arbitral tribunal on account of certain interlocutory orders passed by the arbitrator. Thus, he petitioner has filed this petition for the appointment of new arbitrator.

3. Section 11 of the Act authorizes the Chief Justice or any person or institution designated by him, to appoint an arbitrator where the parties fail to appoint an

arbitrator as per the procedure agreed by them or where the mandate of the arbitrator is determined.

4. The authority of the arbitrator can be challenged u/s 12 read with section 13 of the Act on the ground that he is not working independently or impartially whereupon it is for the arbitral Tribunal to rule about it Section 13 of the Act provides that if a challenge so made fails before the Tribunal, the arbitral proceedings shall continue and after the award is made, the parties may apply for setting aside the arbitral award in accordance with section 34 of the Act and challenge the jurisdiction of the arbitrator. The Act does not contemplate for removal of an arbitrator through process of the Court or in exercise of power u/s 11 of the Act so as to appoint a new arbitrator. In view of the above, I find no ground to accept the prayer of the petitioner and the petition is accordingly dismissed.