

(2024) 08 DEL CK 0033

Delhi High Court

Case No: OMP (ENF.) (COMM.) 50 Of 2021

Ambience Commercial Developers
Pvt. Ltd

APPELLANT

Vs

Kaur Cookies Pvt. Ltd

RESPONDENT

Date of Decision: Aug. 1, 2024

Acts Referred:

- Arbitration and Conciliation Act, 1996 - Section 12(2), 14(1)(a)

Hon'ble Judges: C.Hari Shankar, J

Bench: Single Bench

Advocate: Rishabh Tomar, Akshay Chitkara, Kailash Sharma, Anurag Abhishek

Final Decision: Allowed

Judgement

C.Hari Shankar, J

OMP (ENF.) (COMM.) 50/2021

1. Learned Counsel for the petitioner, at the very outset, submits that as the appointment of the arbitrator, who has rendered the award of which enforcement is being sought, was unilateral, the appointment itself was not in accordance with law and that, therefore, award is not enforceable. He, however, suggests that, in order to expedite the matter, this Court may appoint a substitute arbitrator to arbitrate on the disputes. He also suggested that the matter may not be relegated to be arbitrated ab initio but that the pleadings already filed before the earlier arbitrator should be permitted to be taken into consideration in the fresh arbitral proceedings.

2. Learned Counsel for the respondent has no objection but submits that the parties should be at liberty to apply to the newly appointed arbitrator to file additional pleadings and lead additional evidence and that newly appointed arbitrator should be conferred the authority to decide such application as and when filed.

3. As such, this Court, exercising jurisdiction under Section 14(1)(a) of the Arbitration and Conciliation Centre, 1996 ("the 1996 Act"), appoints Mr. Shinoj K. Narayanan (Mob: 9711943928) as the arbitrator to arbitrate on the disputes.

4. De novo arbitration shall take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The newly appointed arbitrator shall be entitled to fees as per schedule of fees maintained by the DIAC.

5. The newly appointed arbitrator is also requested to file the requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on reference.

6. The parties are at liberty to move the learned arbitrator for being permitted to file additional pleadings and lead additional evidence. It would be for the learned arbitrator to take a call as and when such application is moved.

7. Needless to say, the arbitrator would proceed uninfluenced by the award of which enforcement is sought, which shall be regarded as non est.

8. The petition stands allowed in the aforesaid terms.

EX.APPL.(OS) 289/2021, EX.APPL.(OS) 206/2024 and EX.APPL.(OS) 632/2024

9. The applications do not survive for consideration and stand disposed of.