

JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Civil Revision No. 415/2018.

M/s Sardar Muhammad Ashraf D. Baloch (Private) Limited

Versus

National Highway Authority, etc.

Petitioner by: Mr. Babbar Ali Khan, Advocates.

Respondent No.1 by: Mr. Rizwan Faiz Muhammad, Advocate.

Date of Decision: 07.05.2019.

MOHSIN AKHTAR KAYANI, J:- Through this Civil Revision, the petitioner has assailed the order dated 17.12.2018, passed by learned Civil Judge, 1st Class (West), Islamabad, whereby application for appointment of sole arbitrator U/S 18(2) of the Arbitration Act, 1940 was accepted and Syed Hasnain Ibrahim Kazmi, Advocate Supreme Court of Pakistan (former Deputy Attorney General for Pakistan) has been appointed as new arbitrator and declared Mr. Justice (R) Nasir Aslam Zahid unauthorized arbitrator in dispute among the parties.

2. Learned counsel for the petitioner contends that parties are under dispute in agreement dated 25.04.2012 in which arbitration clause has been invoked in terms of particular condition of agreement and respondent's side has recommended three names for appointment of sole arbitrator in which Mr. Justice (R) Nasir Aslam Zahid was appointed and he has initiated the proceedings and issued notices to the respondent but NHA failed to appear and finally filed application U/S 8(2) of the Arbitration Act, 1940 while referring certain bias against Mr. Justice (R) Nasir Aslam Zahid, where-after learned Civil

Judge 1st Class (West), Islamabad has accepted the application and passed the impugned order dated 17.12.2018.

3. Conversely, learned counsel for respondent/NHA contends that NHA had not given any consent through which it could be assumed that Mr. Justice (R) Nasir Aslam Zahid was appointed as sole arbitrator in this case and has referred letter dated 27.04.2018, issued by the petitioner, 23.05.2018, issued by the NHA and finally letter dated 16.08.2018 in which NHA in categorical term has stated that appointment of Mr. Justice (R) Nasir Aslam Zahid is not acceptable to NHA.

4. Both the parties have argued their case at length, however, at the end of proceedings, both parties are in agreement that impugned order be set aside and Mr. Justice (R) Ijaz Nisar be appointed as sole arbitrator for the dispute against the fixed fee @ Rs.12,00,000/-, therefore, this Court without touching the merits of case with consent of learned counsel for the parties set aside the impugned order dated 17.12.2018 and appoint Mr. Justice (R) Ijaz Nisar as sole arbitrator in the dispute among M/s Sardar Muhammad Ashraf D. Baloch (Pvt.) Ltd. and NHA.

5. Both the parties are directed to submit their written consent for appointment of Mr. Justice (R) Ijaz Nisar as sole arbitrator through duly authorized persons of both the parties within period of 10 days before the Court concerned. After submission of written consent it is expected from the duly notified arbitrator Mr. Justice (R) Ijaz Nisar to conclude the arbitration proceedings in accordance with law as early as possible.

6. Instant civil revision stands disposed of in above terms.

(MOHSIN AKHTAR KAYANI)
JUDGE