

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

F.A.O. No.26/2018
M/s Laraib Energy Ltd.
Versus

M/s Association of Construction Engineers and Technicians (Ascent)

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	17.06.2019	Syed Shahab Qutub, Mr. Usama Jamshaid and Ms. Maria Farooq, Advocates for the appellant. M/s Muhammad Masood Khan, Muhammad Nasir Khan and Shakil Hassan Qaiser, Advocates for the respondent.

Through the instant appeal, the appellant, M/s Laraib Energy Ltd., impugned the order and decree dated 12.02.2018, passed by the Court of the learned Civil Judge (West), Islamabad, whereby the respondent's application under Section 14(2) of the Arbitration Act, 1940 ("the 1940 Act"), was allowed. Consequently, the arbitration award dated 31.10.2014 was made a rule of Court, and a judgment and decree in terms thereof was passed.

2. The learned counsel for the contesting parties were heard at length. During the course of the arguments, the learned counsel for the contesting parties, after taking instructions, arrived at a consensus in the following terms:-

- i. The impugned order and decree dated 12.02.2018, passed by the learned Civil Court as well as the arbitration award dated 31.10.2014 may be set-aside;
- ii. This Court may appoint the Hon'ble Mr. Justice (Retired) Nasir-ul-Mulk Khan, former Chief Justice of Pakistan as the sole arbitrator;
- iii. The respondent would file its claim and the appellant would file its

counter claim before the learned sole arbitrator; and

- iv. The pre-conditions for making a reference to arbitration envisaged in clause 50 of the agreement dated 12.03.2012 executed between the appellant and the respondent are waived.

3. In view of the above consensus, the instant appeal is allowed; the impugned order and decree dated 12.02.2018, passed by the learned Civil Court as well as the arbitration award dated 31.10.2014 are set-aside; the Hon'ble Mr. Justice (Retired) Nasir-ul-Mulk Khan, former Chief Justice of Pakistan is appointed as the sole arbitrator to adjudicate upon the respondent's claim and the appellant's counter claim arising from and related to the agreement dated 12.03.2012; and the pre-conditions for making a reference to arbitration envisaged under clause 50 of the said agreement shall not pose as an obstacle before the learned sole arbitrator in adjudicating upon the claims filed by the contesting parties. The learned sole arbitrator shall fix his own fees.

4. This issues with the consent of the contesting parties. Office is directed to communicate a copy of this order and the addresses of the contesting parties to the learned sole arbitrator.

(MIANGUL HASSAN AURANGZEB)
JUDGE