

Meena Joneja vs Rajeev Joneja & Anr on 27 September, 2021

Author: Vibhu Bakhru

Bench: Vibhu Bakhru

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IN THE HIGH COURT OF DELHI AT NEW DELHI
ARB.P. 940/2021
MEENA JONEJA

Through

...
Mr. S. S. Pandey, Mr.
Shukla and Mr. S Kris
Advs.

versus

RAJEEV JONEJA & ANR.

Through

...
Mr. Satyavikram, Adv.
Mr. Vikram Mehta, Adv

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% 27.09.2021 [Hearing held through videoconferencing] I.A. Nos.12533/2021 & 12534/2021

1. Allowed, subject to all just exceptions.

ARB.P.940/2021 & I.A. No.12532/2021

2. The petitioner has filed the present petition under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (hereafter "A&C Act") praying as under:

"11. Relief or remedy sought:

For the reasons submitted above, it is most respectfully prayed that this Hon'ble Court be pleased to make an order of appointment of an independent person as a sole arbitrator for adjudication of the dispute / claims.

Such other and further relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case; be also granted in favour of the Petitioner and against the Respondent."

3. The petitioner states that respondent No.2 had allotted a Gas Agency to Late Lt. Col. G.R. Joneja, who was the father-in-law of the petitioner and the father of respondent No.1. The business of Gas

Agency was being run as a sole proprietorship concern of Late Col. G.R. Joneja till 01.04.1995. Thereafter, the business carried on by the partnership firm in which and Col. G. R. Joneja held 50%, his wife held 30% and the petitioner held 20%.

4. Col. G. R. Joneja expired on 14.10.2006. Thereafter, the partnership firm was reconstituted. The petitioner claims that after the demise of his father-in-law, she had taken full control of the Gas Agency. The firm was reconstituted with the petitioner and respondent no.1 holding equal shares.

5. Certain disputes have arisen between the petitioner and respondent No.1 in connection with the affairs of the said partnership firm. The Partnership Agreement includes arbitration clause that reads as under:

"7. That all disputes, doubts and differences arising amongst the partners in connection with the partnership shall be referred to a Board of Arbitrator in accordance with the Indian Arbitration Act with the mutual consent of the parties to this Deed."

6. The petitioner had invoked arbitration by her undated letter a copy of which is annexed at page 103 of the documents filed by the petitioner. The learned counsel for the petitioner and respondent no. 1 state that the said letter was handed over by the petitioner to respondent No.1 on 17.08.2021.

7. Mr. Mehta, the learned counsel appearing for respondent No.2 states that respondent No.2 is not a party to the agreement in question or to the dispute between the petitioner and respondent No.1. Therefore, respondent No.2 cannot be made party to the arbitration proceedings.

8. Mr. Mehta's contention is merited.

9. Mr. Satyavikram, the learned counsel appearing for respondent No.1 does not dispute the existence of the Partnership Agreement or an agreement to refer the dispute between the petitioner and respondent No.1, to arbitration. He states that he has no objection if an arbitrator is appointed to adjudicate their dispute while reserving all rights and contentions of respondent No.1 in respect of allegations made by the petitioner.

10. Since there is no dispute as to the existence of the arbitration agreement between the petitioner and respondent No.1 and the same was invoked by the petitioner by her letter handed over to respondent No.1 on 17.08.2021, this court considers it apposite to allow the present petition.

11. Mr. Samrat Nigam, Advocate (Mobile No.9810424476) is proposed to be appointed as a sole arbitrator to adjudicate the disputes that have arisen between the petitioner and respondent No.1. The parties are at liberty to approach the learned sole Arbitrator for eliciting his consent and necessary disclosure as required under Section 12 (1) of A&C Act.

12. The petitioner has arrayed respondent No.2 as a party since it had allotted the Gas Agency to the firm. The petitioner also seeks that an appropriate direction be issued to respondent No.2 to

recognize the petitioner as carrying on the business of firm. Plainly, no such directions can be passed in these proceedings as the scope of Section 11 of the A&C Act is limited to the appointment of the Arbitral Tribunal. However, the petitioner and respondent No.1 are at liberty to make appropriate representation before the respondent No.2 within a period of three weeks from today in addition to the reply to the show cause notice issued by respondent no.2. Needless to say, respondent No.2 shall consider the same and take such decision that it considers apposite.

13. List on 08.10.2021.

VIBHU BAKHRU, J SEPTEMBER 27, 2021 dr [Click here to check corrigendum](#), if any