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**258 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

ARB-217-2026

Date of Decision: 06.08.2026

NEERAJ KUMAR AND ANR

..... Petitioners

Versus

GYAN PRAKASH DUBEY AND ANR

..... Respondents

CORAM: HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. Vijender Parmar, Advocate (Through V.C.)
for the petitioners.

Mr. Saurabh Pandey, Advocate with
Mr. Naveen Balwan, Advocate and
Mr. Aman Pratap Singh, Advocate
for respondents No.1 and 2.

LAPITA BANERJI, J. (Oral)

1. This is an application under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as, 'the 1996 Act').
2. Learned counsel appearing on behalf of the petitioners submits that a Collaboration Agreement was entered into between the parties on August 5, 2019. Clause 43 of the said Collaboration Agreement is an arbitration agreement whereby any dispute or difference arising between the parties was to be referred for adjudication by way of arbitration proceedings. Since disputes and differences arose between the parties, notice under Section 21 of the 1996 Act was issued on January 30, 2026 by the petitioners.
3. Despite receipt of such statutory notice, there was no response on behalf of the respondents.
4. Notice of motion was issued on May 8, 2026.
5. Learned counsel appearing on behalf of the petitioners



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submits that, despite proper invocation of the arbitral proceedings, no steps have been taken by the respondents to nominate an arbitrator and, therefore, a learned sole Arbitrator may be appointed by this Court under Section 11(6) of the 1996 Act.

6. Learned counsel appearing on behalf of the respondents relies on the reply filed on behalf of his clients and submits that there was no incorporation of an arbitration clause in the settlement agreement entered into between the parties. The settlement agreement clearly recorded that the petitioner/developer had not completed their part of the construction work. Therefore, he submits that unless the entire construction work is completed, the settlement money could not be demanded from the respondents. He also submits that since the arbitration clause is not a part of the settlement agreement, the present application for referring the disputes and differences between the parties to arbitration proceedings is not maintainable.

7. Learned counsel for the respondents also submits that once a settlement agreement is entered into between the parties and the claims are finally settled, the said agreement cannot be unilaterally revoked by the petitioner. Therefore, on that count also, the instant application under Section 11 of the 1996 Act is not maintainable.

8. He relies upon the judgments of the Hon'ble Apex Court in '*Nathani Steels Ltd. Vs. Associated Constructions*' reported in 1995 Supp (3) SCC 324, and '*M.R. Engineers and Contractors Private Limited Vs. Som Datt Builders Limited*' reported in (2009) 7 SCC 696, in support of his contention.



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9. This Court has heard the learned counsel for the parties and perused the material on record.

10. It is undisputed that the Collaboration Agreement dated August 5, 2019 contained an arbitration clause. As per Clause 43 of the Collaboration Agreement, all disputes and differences which arose between the parties were to be adjudicated by way of arbitration. The arbitration proceedings were invoked by a statutory notice dated January 30, 2026 under Section 21 of the 1996 Act. Neither the existence of the Collaboration Agreement nor the factum of the statutory notice having been issued to the respondents are in dispute.

11. Since the disputes and differences arose between the parties, first the same was sought to be amicably settled by entering into a settlement agreement on January 23, 2024 almost two years prior to the statutory notice being issued to respondent No.1. The respondent No.1 was liable to make the entirety of the payment to the developer-petitioner by March 20, 2024 as per Clauses C(i), (ii), (iii) of the settlement agreement. Transfer of the ownership rights was subject to the aforesaid payment being made. Clauses C(i), (ii), (iii) of the Settlement Agreement is reproduced hereinafter:-

“(i) The ownership of the entire second floor (As per OC third floor for a sum of Rs. One crore seventy lacs) 1.70.

(ii) The ownership of the entire third floor (As per OC fourth floor (including complete ownership right of roof/terrace for a sum of Rs. one crore seventy lacs (1.70).

(iii) The owners shall start making the payments from February, 2024 and final payment will be made by 20th



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March, 2024, provided the above said finished work is done, requisite documents of all the installed equipment like lift, pumps and motors, kitchen chimney including all the keys of every space of the house and all the floor and NOC from xxx.”

12. Since the respondents defaulted in making payment of the aforesaid amount within the stipulated period, the settlement agreement fell through. Therefore, there was no settlement of the disputes and differences arising out of the Collaboration Agreement between the parties. Accordingly, the petitioner invoked arbitration proceedings under Section 21 of the 1996 Act.

13. The petitioner has chosen to take legal recourse as per the terms and conditions contained in the Collaboration Agreement.

14. The contention raised on behalf of the respondent with regard to the arbitration clause not being part of the Settlement Agreement is completely fallacious. The disputes and differences arose out of the Collaboration Agreement, which were sought to be amicably settled by way of the Settlement Agreement. The settlement fell through due to default on the part of the respondent in making payment, in accordance with the terms of the Settlement Agreement.

15. Reliance on the case of ***Associated Constructions*** (supra) is misplaced, since in the said case a settlement agreement was entered into between the parties, which the respondent sought to resile from by taking the plea that there was a mistake in calculation with regard to the amount in question.

16. In such circumstances, the Hon'ble Apex Court held that when disputes and differences are amicably settled by way of a final



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settlement between the parties, unless that settlement is set aside in proper proceedings, one of the parties to the settlement could not spurn it on the ground that it was a mistake and then proceed to invoke the arbitration clause.

17. In the present case, the petitioner has not resiled from the Settlement Agreement. It is respondent No. 1 who, despite entering into the Settlement Agreement, defaulted in making payments and he is now seeking to take advantage of his own wrong by submitting before this Court that once the Settlement Agreement was entered into between the parties, the same is irrevocable whether or not the obligations under the Settlement Agreement are fulfilled by the parties.

18. The next judgment relied upon by the learned counsel for the respondents is that of *Som Datt Builders Limited* (supra). The issue in that case was whether a valid arbitration clause was incorporated in the contract between the parties. In such context, the Hon'ble Apex Court held that only reference to documents in a contract in a particular form or to a contract in a particular context does not necessarily mean that the document would be incorporated in its entirety in the contract.

19. The facts of the present case are completely distinguishable because the arbitration clause was incorporated in the Collaboration Agreement itself. Disputes and differences have not arisen between the parties out of the settlement agreement. The Settlement Agreement is only an offshoot of the Collaboration Agreement by which, prior to adjudication of the disputes and differences by way of arbitral proceedings, the parties sought to resolve the same amicably.

20. Since the said settlement failed due to the default in payment

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by respondent No. 1, the petitioner had no option but to invoke the arbitration proceedings. Accordingly, this Court finds no merit in the submissions made by the learned counsel appearing on behalf of the respondents.

21. In the light of aforesaid discussion, the present petition is allowed. Mr. Amol Rattan Singh, Former Judge, Resident of House No.363 Sector- 2, Panchkula- 134109 (Mobile No.9814105596) is appointed as the Sole Arbitrator to adjudicate upon the disputes between the parties, subject to compliance of the statutory requirements.

22. Liberty is granted to the parties to raise all claims, counter claims, defences, pleas etc. before the Learned Arbitrator.

23. Needless to mention that all the questions arising between the parties shall remain open for determination in the arbitral proceedings and any observation made hereinabove will not be binding on the learned Arbitrator.

24. A request letter along with a copy of this order be sent to Mr. Amol Rattan Singh, Former Judge, Resident of House No.363 Sector- 2, Panchkula- 134109 (Mobile No.9814105596).

25. In the light of aforesaid discussion, **ARB-217-2026** is **disposed of**.

(LAPITA BANERJI)
JUDGE

06.08.2026

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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No