

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

ARBITRATION PETITION NO. 15 OF 2006

NATIONAL AGRICULTURAL COOP MKTG.FED.I.L.

Petitioner(s)

VERSUS

GAINS TRADING LTD.

Respondent(s)

(With appln(s) for directions)

Date: 09/12/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Petitioner(s) Mr. V.Giri,Sr.Adv.

Ms. Madhu Sweta,Adv.

Mr. Joju Kynady,Adv.

Mr. K.C. Dua,Adv.

For Respondent(s)

Mr. R.K. Khanna,Adv.(NP)

UPON hearing counsel the Court made the following
O R D E R

Arbitration Petition is allowed.

[SUMAN WADHWA]
COURT MASTER

[N. K. GOEL]
COURT MASTER

Signed order is placed on the file.

ITEM NO. 401

COURT NO. 14

SEC.XVIA

IN THE SUPREME COURT OF INDIA

ARBITRATION PETITION NO. 15 OF

2006

IN THE MATTER OF:

NATIONAL AGRICULTURAL COOP MKTG. FED.I.L.
PETITIONER

...

versus

GAINS GTRADING LTD.
RESPONDENT

...

(With office report for directions)

BEFORE:

HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Petitioner (s)

Mr. V. Giri,Adv.

Ms. Madhu Sweta, Adv.
Mr. Joju Kynady, Adv.
Mr. K.C. Dua, Adv.

For Respondent(s)

Mr. R.K. Khanna, Adv. (NP)

O R D E R

By an order dated 22nd May, 2007, this Court had allowed the present petition and the matter was listed on 24th May, 2007 for appointment of the Arbitrator. The parties were also requested to suggest the name of the person finding mutual acceptance, by that date for appointment as Arbitrator. By order dated 25th May, 2007 Mr. S.P. Barucha, a former Chief Justice of India was appointed as a sole Arbitrator on the express agreement of the learned counsel for the parties.

-2-

A perusal of the record shows that thereafter former Chief Justice S.P. Barucha took up the arbitration proceedings and issued notices to the parties. The record also indicates that ultimately in utter frustration the learned sole Arbitrator was constrained to resign through notice dated 1st October, 2007. Upon resignation of the sole Arbitrator, the petitioner moved I.A. praying for the appointment of sole Arbitrator to adjudicate the disputes between the parties. Notices of the I.A. was issued on 29th January, 2008. The office report indicates proof of service to the counsel of respondent was filed by the petitioner in 2008, thereafter the matter was listed on 4th November, 2008. In the meantime, the address of the respondent had changed. Thereafter on 16th December, 2008 the petitioner was directed to furnish the correct address of the respondent. Then fresh notice was issued on 17th March, 2009 through Power of Attorney holders of the respondent-Company. Dasti service was also permitted which was duly effected on 18th April, 2009. On 28th April, 2009 this Court held that dasti service was effected on Power of Attorney holders, since none appeared fresh notice was issued on them by registered A.D. On 14th July, 2009 fresh notice was issued as requested by the Ministry of Law and Justice for service on the respondents. Since there was no response at all from the respondents by order dated 3rd May, 2010 prayer of the petitioner was allowed to effect substituted service in Hong Kong. Pursuant to the

-3-

aforesaid order, the petitioner filed IA for effecting substituted service. Ultimately substituted service has been effected through publication on 22nd September, 2011. Notices were duly served through the newspapers viz. 'The Standard and South China Morning Post' in Hong Kong. Affidavit of service has been duly placed on the

record.

Today, when the matter was taken up for hearing again, no one appears on behalf of the respondent. Consequently no fresh objections have been raised by the respondent to the maintainability of the petition. The matter would, therefore, be squarely covered by the earlier order passed by this Court on 22nd May, 2007.

In view of the above, the petition is allowed.

Now, it is directed that Hon'ble Mr. Justice B.P. Singh, a retired Judge of this Court, is appointed to act as the sole Arbitrator. Terms and conditions will be settled by the sole Arbitrator.

Registry is directed to communicate this order to the sole Arbitrator for proceeding with the arbitration.

.....J
(SURINDER SINGH NIJJAR)

NEW DELHI,
DECEMBER 9, 2011.