

O R D E R

1. The proposition canvassed at the hands of the learned counsel for the appellant is, whether the petition filed under Article 226 of the Constitution of India, by Respondent No.1, was competent before the High Court, to assail an order of appointment of an Arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996, (hereinafter referred to as the Arbitration Act) by the High Court itself.

2. Having given our thoughtful consideration to the issue in hand, we are of the view, that a petition filed under Article 226 of the Constitution, was neither competent nor maintainable, to assail the order dated 11.2.2004, passed by the High Court itself, appointing Shri K.S. Chauhan as an Arbitrator in the matter. The impugned order dated 26.4.2006, passed by the High Court, is liable to be set aside, and is accordingly, hereby set aside.

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3. It is implicit from the order passed by us, that the aforesaid Shri K.S. Chauhan appointed as Arbitrator by the High Court, in exercise of the power vested in it under Section 11 of the Arbitration Act would stand revived, and that the said Shri K.S. Chauhan would be entitled to proceed with the arbitral proceedings in the matter.

4. We are however informed, that the above Shri K.S. Chauhan has since died. Rather than requiring the parties to seek appointment of an Arbitrator again under Section 11 of the Arbitration Act afresh, we are of the view, that it would be just and appropriate, and in the fitness of the matter, that we ourselves appoint an Arbitrator. At the joint request of learned counsel for the rival parties, Justice Anil Kumar, a former Judge of the Delhi High Court, is hereby appointed as the Arbitrator. Before entering upon the reference, the Arbitrator appointed by us, shall comply with the mandatory conditions contemplated under Section 12 of the 1996 Act.

5. The civil appeal is disposed of in the above terms.

.....CJI.

[JAGDISH SINGH KHEHAR]

.....J.

[Dr. D.Y. CHANDRACHUD]

New Delhi

12 th

April, 2017.

[SANJAY KISHAN KAUL]

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ITEM NO.103

COURT NO.1

SECTION XIV

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

RECORD OF PROCEEDINGS

Civil Appeal No(s).5186/2007

DELHI DEVELOPMENT AUTHORITY

Appellant(s)

VERSUS

K.R. ANAND & ANR.

Respondent(s)

Date : 12/04/2017 This appeal was called on for hearing today.

CORAM :

HON&#39;BLE THE CHIEF JUSTICE

HON&#39;BLE DR. JUSTICE D.Y. CHANDRACHUD

HON&#39;BLE MR. JUSTICE SANJAY KISHAN KAUL

For Appellant(s) Mr. A. Sharan, Sr. Adv.

Mr. Vishnu B. Saharya, Adv.

Mr. Viresh B. Saharya,Adv.  
For M/s. Saharya & Co.,Advs.  
For Respondent(s) Mr. Pawan Bahl,Adv.  
Mr. J.P. Mishra,Adv.  
For Mr. Rakesh K. Sharma,Adv.

UPON hearing the counsel the Court made the following

O R D E R

The civil appeal is disposed of in terms of the signed order.

(Sarita Purohit)

Court Master

(Renuka Sadana )

Assistant Registrar

(Signed order is placed on the file)