

Ajay Jain Vs. Atul Gupta

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SooperKanoon Citation : sooperkanoon.com/698510

Court : Delhi

Decided On : Jul-14-2004

Reported in : 2004(3)ARBLR285(Delhi); 2004(76)DRJ534

Judge : Mukul Mudgal, J.

Acts : [Arbitration and Conciliation Act, 1996](#) - Sections 11

Appeal No. : Arb. P. No. 63/2004

Appellant : Ajay Jain

Respondent : Atul Gupta

Advocate for Def. : Nemo

Advocate for Pet/Ap. : Uday Gupta, Adv

Disposition : Petition allowed

Judgement :

Mukul Mudgal, J.

1. This is an application under Section 11 of the [Arbitration and Conciliation Act, 1996](#). Even after service of notice none appeared on behalf of the respondent. Accordingly the matter is taken up for hearing. A collaboration agreement for reconstruction and redevelopment of the property measuring 200 sq. yds. bearing

plot No. 17 in Block No. 3, East Patel Nagar, New Delhi was undertaken by the petitioner, the respondent being the owner thereof. The relevant clause 2 of the Collaboration Agreement provided as follows:-

'..... It is also agreed between the parties that the Upper Ground Floor and the Second Floor together with the terrace/roof rights over and above the Second Floor up the limit of the sky and the entire entrance and stair hall area from ground level to roof shall be owned and retained by the First Party; and Lower Ground Floor and First Floor shall be owned and retained by Second Party after completion of construction and all other works in the entire building....'

2. The petitioner avers that he has fulfilled its obligation under the agreement. The respondent has refused to do so and has not yet given him the possession of the lower ground floor and has only given the possession of first floor which has been sold off by the petitioner. Accordingly the applicant had proposed the name of Shri Uday Umesh Lalit, Advocate as Arbitrator as per the arbitration agreement which was not responded to by the respondent. Clause 37 of the agreement provides for arbitration and reads as follows:-

'That in the event of any dispute arising in connection with or incidental to or in respect of scope of this agreement or any part thereof, the same shall be referred to the arbitration subject to the Indian Arbitration and Conciliation Act and the decision of the mutually appointed arbitrator shall be final and binding on both the parties. The venue of the arbitration proceedings shall be at New Delhi.'

3. Accordingly the petition is allowed. With the consent of the learned counsel for the petitioner, Shri Prabhakar Singh, Supdt. Engineer, Circle -I, CPWD, I.P. Bhawan, New Delhi (Mob. 9818772910 9818772910) is appointed as Arbitrator who is directed to pronounce his award within four months from today. He will be paid Rs.30,000/- towards his fee. He will also be entitled to reimbursement of expenses. The parties to approach the Arbitrator expeditiously and not later than four weeks from today.

The petition stands disposed of accordingly.

