

**Surjeet Singh Vs. Devinder Singh and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/700079](http://sooperkanoon.com/700079)

**Court :** Delhi

**Decided On :** Aug-11-2004

**Reported in :** 2005(1)ARBLR147(Delhi); 113(2004)DLT687

**Judge :** R.C. Jain, J.

**Acts :** [Arbitration and Conciliation Act, 1996](#) - Sections 11(4)(6) and 10

**Appeal No. :** Arb. P. No. 130 of 2002

**Appellant :** Surjeet Singh

**Respondent :** Devinder Singh and ors.

**Advocate for Def. :** None

**Advocate for Pet/Ap. :** Rajeev Sharma, Adv

**Disposition :** Petition allowed

**Judgement :**

ORDER

**R.C. Jain, J.**

1. This is a petition under Section 11 of the [Arbitration and Conciliation Act, 1996](#) praying for appointment of an Presiding Arbitrator. It is alleged in the petition that disputes/differences arose between the parties in relation to agreement dated

5.11.1999 and Mr. Ranjit Singh Khalsa and Mr. Mahinder Mohan Singh were appointed as Arbitrators and an arbitral Tribunal was constituted. However, the arbitral proceedings could not be commenced for want of an Presiding Arbitrator, One of the Arbitrator Mr. Mahinder Singh Khalsa made several requests to his counterpart Mr. Ranjit Singh Khalsa for agreeing for the appointment of a third/ Presiding Arbitrator. However, there was no response from his side and so this petition.

2. The respondent Mr. Devinder Singh was served with the notice and has filed reply raising preliminary objections about the alleged arbitration agreement being a fake and forged as also denying that there subsists any disputes between the parties which are liable to be settled through the mode of arbitration. It is, however, not disputed that at one stage, Mr. Ranjit Singh Khalsa and Mr. Mahinder Mohan Singh Khalsa were appointed as Arbitrators but it is stated to be in deference to the wishes of the petitioner and not on account of any valid arbitration agreement, The respondents thereafter absented themselves from the proceedings on several dates.

3. Learned Counsel for the petitioner submits that in view of the failure of the other Arbitrator to agree for the appointment of a Presiding Arbitrator, this Court should exercise its powers vested under Section 11(4) and (6) of the Act for the appointment of a Presiding Arbitrator.

4. This Court on a consideration of the said provisions and the factual position that the number of arbitrations of the Arbitral Tribunal so constituted is even which is hit by Section 10 of the [Arbitration and Conciliation Act, 1996](#), and that the two Arbitrators appointed by the parties have failed to reach an agreement about the appointment of the third Arbitrator as was expected from them, this Court should exercise its authority to nominate a Presiding Arbitrator.

5. In the result, this petition is allowed and Mr. Mahinder Pal, Retd. Additional District and Sessions Judge was approved as the Presiding Arbitrator along with Mr. Ranjit Singh Khalsa and Mr. Mahinder Mohan Singh Arbitrators. The Arbitral Tribunal shall now constitute Mr. Mahinder Pal as the Presiding Arbitrator and Mr. Ranjit Singh Khalsa and Mahinder Mohan Singh as the Arbitrators. The Arbitral

Tribunal shall be entitled to fix its fee not exceeding to Rs. one lac, excluding the expenses in connection with proceedings.

6. Parties are directed to appear before the Arbitral Tribunal so constituted on 20th August, 2004 at 4.00 p.m.

7. With the above observations the petition and all pending applications stand disposed of.

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