IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Arbitration Case No. 07 of 2013 (O&M)
Date of Decision : 16.08.2013

M/s Sheela's Collection

...Petitioner

Versus

M/s Cotton County Retail Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KISHAN KAUL, CHIEF JUSTICE

Present: Mr. Aalok Jagga, Advocate,
for the petitioner.

Mr. I.S. Ratta, Advocate,
for the respondent.

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SANJAY KISHAN KAUL, C.J. (ORAL)

The present petition has been filed seeking arbitration on account of a dispute emanating from an agreement dated 03.08.2008. The stand of the respondent is that there is no such agreement, but the actual agreement is dated 23.04.2008. The respondent also states that the petitioner itself has referred to this agreement dated 23.04.2008 in its communications.

On the other hand, learned counsel for the petitioner points out that in response to the invocation of the arbitration clause and the appointment of an arbitrator, the respondent vide their reply dated 14.05.2013 have referred to the agreement dated 03.08.2008. Be that as it may, he submits that the agreements are verbatim copy of each

other, the position not disputed by learned counsel for the respondent.

Learned counsel for the petitioner states that in view of there being a valid arbitration agreement interse the parties, the question of which of the agreement was a genuine one can be decided by the arbitrator or in any case the arbitration can proceed in terms of an agreement dated 23.04.2008.

Learned counsel for the respondent on the other hand is unwilling for the same despite the respondent having appointed their arbitrator in pursuance to the arbitrator appointed by the petitioner which really requires the third presiding arbitrator to be appointed by the two arbitrators.

In my view, there is nothing else required to be examined as the present petition is for appointment of an arbitrator on behalf of the respondent and the two arbitrators having been appointed by the two parties must in turn elect the third presiding arbitrator. These two arbitrators will, thus, meet on 31.08.2013 at 11.00 AM at the Mediation Centre, District Courts, Ludhiana for the said purpose and naturally in case there is no agreement on the third arbitrator, an appropriate petition can be filed.

The petition stands accordingly disposed of.

(SANJAY KISHAN KAUL)
CHIEF JUSTICE

16.08.2013