



CIVIL

Delhi High Court Clarifies Jurisdiction in Arbitration Cases Where Agreement is Silent on Seat/ Venue

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The Delhi High Court recently dismissed an arbitration petition filed by Faith Constructions against N.W.G.E.L Church in a construction dispute. The case centered around a construction agreement dated July 6, 2022, for building a Bishop's Residence in Odisha. Faith Constructions alleged that N.W.G.E.L Church breached the agreement by failing to complete the work on time and defaulting on payments. After invoking arbitration under Section 21 of the Arbitration and Conciliation Act, 1996, Faith Constructions filed this petition under Section 11(5) and (6) seeking the appointment of an Arbitral Tribunal.

N.W.G.E.L Church contested the jurisdiction of the Delhi High Court, arguing that since the arbitration clause in the agreement did not specify a seat or venue for arbitration, the matter should be heard in Odisha where the construction work took place, where the agreement was executed, and where the church is based. The respondent also pointed out that they had already appointed a Sole Arbitrator in Odisha.

Faith Constructions countered that part of the cause of action arose in Delhi since payments were received in a Delhi bank account and bills were raised from their Delhi office. They also argued that the respondent's unilateral appointment of an arbitrator in Odisha was not binding, citing Supreme Court precedents.

The court conducted a detailed analysis of jurisdictional issues under Section 11 of the Arbitration and Conciliation Act when the arbitration agreement is silent on the seat or venue. It determined that jurisdiction depends on where the cause of action arises and where the respondent resides or conducts business. The court examined the concept of "cause of action" and its materiality, concluding that the substantial cause of action was in Odisha where the agreement was executed, the construction work was performed, and the respondent is based. The court found that payments received in Delhi did not constitute a substantial part of the cause of action.

In reaching its decision, the court relied on several legal provisions including Section 11(5) and (6) of the Arbitration and Conciliation Act, 1996, and Section 2(1)(e) of the same act read with Sections 16-20 of the Civil Procedure Code, 1908. The court also considered several Supreme Court precedents including TRF Limited v. Energo Engineering Projects Ltd., Perkins Eastman Architects DPC v. HSCC (India) Limited, BBR (India) (P) Ltd. v. S.P. Singla Constructions (P) Ltd., Ravi Ranjan Developers (P) Ltd. v. Aditya Kumar Chatterjee, and Alchemist Ltd. & Anr. v. State Bank of Sikkim & Ors.

The Delhi High Court ultimately dismissed the petition, holding that substantial part of the cause of action arose in Odisha and concluding that the jurisdiction for arbitration should be in Odisha where the respondent is based and the substantial cause of action arose.

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