

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 2714 OF 2019
(Arising out of SLP (C) No. 3283/2019)

EVOLUTIONARY SYSTEMS PVT. LTD.

Appellant(s)

VERSUS

SHUBHAM RAJKUMAR SHARMA

Respondent(s)

O R D E R

Leave granted.

Despite service, nobody appears on behalf of the respondent.

By a Letter of Appointment dated 03.04.2017 issued by the appellant-Company, the respondent was appointed as an Assistant Consultant - Technical. On the same day, an Agreement was executed between the parties in which it was stated that the respondent will have to serve continuously for a period of two years, and if he fails to do so, will have to pay damages of Rs. 2,50,000/- (Rupees Two Lakh Fifty Thousand only). The said Agreement contained an arbitration clause. It is undisputed that the said respondent left the Company on 10.10.2017 within the aforesaid period of two years.

By a legal notice dated 14.11.2017, the appellant demanded the sum of Rs. 2,50,000/- together with interest and requested that the matter be sent for arbitration. Since there was no reply, an Arbitration Petition was filed under Section 11 of the Arbitration and Conciliation Act, 1996 dated 20.08.2018. This petition was dismissed by the impugned judgment, stating that since the dispute involves a service agreement appropriate remedy should be availed.

We have heard the learned counsel appearing on behalf of the appellant.

Merely because the dispute involves a service agreement would not put it in the category of disputes which are non-arbitrable. In any view of the matter, given Section 11 (6A) of the Arbitration Act, all that the Court has to see at this stage is whether an arbitration agreement exists between the parties. There is no doubt whatsoever that such agreement exists.

In this view of the matter, we allow the appeal and appoint Mr. Apurva Sharad Vakil as the sole Arbitrator, who has to enter upon the reference immediately.

..... J.
(ROHINTON FALI NARIMAN)

..... J.
(VINEET SARAN)

New Delhi;
March 11, 2019.

ITEM NO.56

COURT NO.5

SECTION III

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

Petition(s) for Special Leave to Appeal (C) No(s). 3283/2019

(Arising out of impugned final judgment and order dated 31-08-2018 in ARB No. 137/2018 passed by the High Court Of Gujarat At Ahmedabad)

EVOLUTIONARY SYSTEMS PVT. LTD.

Petitioner(s)

VERSUS

SHUBHAM RAJKUMAR SHARMA

Respondent(s)

(FOR ADMISSION)

Date : 11-03-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE VINEET SARANFor Petitioner(s) Mr. K. L. Janjani, AOR
Mr. Pankaj Kumar Singh, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed and Mr. Apurva Sharad Vakil is appointed as the sole Arbitrator in terms of the signed order.

(R. NATARAJAN)
COURT MASTER (SH)(RENU DIWAN)
ASSISTANT REGISTRAR

(Signed order is placed on the file)