**Application For Setting Aside An Award**

In the High Court at Himachal Ordinary Original Civil Jurisdiction

In the matter of:

An application under section 34 of the said Act

And

In the matter of:

An Arbitration Agreement contained in Contract No. 444 dated ..................

And

In the matter of:

Shimla Construction a company registered under the Companies Act 1956 and doing business at The Mall Shimla, H.P.

Petitioner

Versus

1. M/s………Ltd, a company registered under the Companies Act 1956 and doing business at Chandigarh

2. Mr. Ajay Sharma Advocate The Mall, Shimla , H.P.

Respondents

To

The Hon'ble Mr.........................Chief Justice and His Companion Justices of the said Hon'ble Court

The petitioner named above most respectfully

sheweth:

1. Per an under agreement dated............... the petitioner undertook to build apartments on first respondent on consented specifications, terms/conditions with price.

2. Petitioner completed the work, got payment of the running bills, offered handing over of houses, apartments and guest houses and claimed payment of final bill.

3. The first respondent raised several flimsy objections for withholding payment of remaining bills.

4. Per arbitration clause in said agreement the parties herein that is the petitioner and respondent No. 1 selected respondent No. 2 as the sole arbitrator to settle and adjudicate all the controversies and disagreements, between the petitioner and the first respondent emerging out of the building work done by petitioner for the first respondent.

5. The disagreements and controversies emerged on ............... and thereafter the same were referred to arbitration of respondent No. 2 on .................. and respondent No. 2 entered into reference on ..................

6. After that various sittings were held and both the petitioner and the first respondent lead both documentary/oral evidence.

7. Respondent No. 2 passed his award on ..................... notified the same to parties with a copy thereof on ..................... A copy of the Award is annexed hereto marked 'B'.

8. The said award being illegal and be quashed inter alia, the below reasons;

(a) the said award deals with a controversies not stipulated by the parties;

(b) the said award deals with a matter not coming within the terms of presentation to arbitration;

(c) the said award having decisions on matters beyond the ambit of the presentation to arbitration.

(d) the award does not deal with issue No. 5 raised and decided.

9. The controversies referred to respondent No. 2 for arbitration will appear from the statement of facts with counter statement of facts. Copies of those documents are enclosed hereto marked 'C' and ‘B’ respectively.

10. The parties raised various issues. after that respondent No. 2 decided these issues and the parties did not object.

11. After the award is passed. It is found that award deals with issues not raised and the award evades to decide on issue No. 5 which was raised and decided by respondent No. 2.

12. Petitioner says that Award is bad in law. factually said award is illegal and should be quashed.

13. Petitioner says that this Hon'ble Court will be pleased to check the Award with documents filed along with award and instruct further enquiry as may be compulsory and after that quashed the said award.

14. Unless orders are passed as prayed for herein petitioner will sustain loss with prejudice.

15. This application is made bona fide with interest of justice.

Petitioner hence humbly prays Your Lordships for below orders:

(a) The Award passed by respondent No. 2 on...............be quashed;

(b) Costs of this application be paid by respondent No. 1;

(c) Further orders be passed and instructions be issued which this Hon'ble Court may consider proper and fit;

And petitioner as in duty bound shall ever pray.

Signature of the Advocate for the petitioner

Signature of the petitioner

VERIFICATION

1. I being Director of Shimla construction and its Principal Officer and Constituted Attorney. I know and I have acquainted myself with the facts and circumstances of this case and I can depose thereto. I am empowered and competent to verify the aforesaid petition and I do verify the same on behalf of the petitioner.

2. The statements bearing in paragraphs 1 to 15 hereinabove are true to my best knowledge basing on information got from records kept by the petitioner company and I believe them to be true.

Solemnly affirmed on oath by the said Mr. ..........................................pertaining to Board Resolution dated ............... of the contraction India Private Ltd. in the Court House at Bombay on the 15th day of December 2002.

Deponent