**Petition For Selecting Of An Arbitrator**

Special Suit No. ............ of................

Before the High Court at Himachal Ordinary Original Civil Jurisdiction

In the matter of an application under section 8 of the Arbitration and Conciliation Act 1996

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

Petitioner

VERSUS

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

Respondent

To

The Hon'ble Mr. ...................... Chief Justice with

His Companion Justices of the said Hon'ble Court

The petition above named of Shimla construction., most respectfully

Showeth:

1. Petitioner entered into a contract with the respondent for building of some flats on terms/conditions having in an Agreement dated 5th January 2000.

2. Petitioner on completion work and offering handing over of flats and demanded from the respondent payment of final bill.

3. The respondent did not pay the outstanding amount knowingly and petitioner according with the arbitration clause in the agreement referred the controversies for arbitrating of Mr Ajay Sharma Advocate and served notice accordingly to respondent.

4. Said notice remained unrepelled and the arbitration proceedings could not begin.

5. Petitioner has now been served with a Summons for appearing and defending a suit as filed by the respondent for damages against the petitioner for contravening the said contract.

6. Petitioner has to enter appearance and file statement in the said suit. Petitioner says that the said suit covering the contract for building of flats. Which work the petitioner has completed and presented the final bill but payment has not been received. The controversies and disagreements emerge by and between the petitioner and respondent concerning the building also with payment of bills of petitioner.

7. Owing to arbitration clause in said contract petitioner duly gave a notice on the respondent and appointed the Advocate being sole arbitrator.

8. Petitioner was willing and still ready to get the controversies and disagreements decided by the Arbitrator to be appointed under the Arbitration Clause in the agreement notice whereby was served on the respondent. However due to not appointing the sole Arbitrator as said by petitioner, the Hon'ble Court will be pleased to appoint an Arbitrator per section 11 of the Arbitration and Conciliation Act 1996.

9. Petitioner says that per facts and circumstances of the case the proceedings in the said suit be stayed. Arbitrator be appointed to settle the controversies between the parties relating to said suit and Award be passed.

10. Unless orders are passed as prayed for petitioner will sustained loss with prejudice.

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

Petitioner hance humbly prays Your Lordships with following orders:

(a) Staying further proceedings in the above suit;

(b) An Arbitrator be selected to settle the controversies emerged in the suit or otherwise in the arbitration proceedings;

(c) Costs of this application become the costs in the arbitration proceedings;

(d) Subsequent orders be passed and instruction be given as this Hon'ble Court may deem proper and fit.

And petitioner, as in duty bound, shall ever pray.

Verification

(1) I being Director of Shimla construction, and a principal officer and a Constituted Attorney. I know and I have made myself acquainted with the facts/circumstances of the case and I can depose thereto. I am competent to affirm and do hereby affirm and declare and verify on behalf of the petitioner.

(2) The statements having in paragraphs 1 to 11 of above petition are true to my best knowledge basing on records kept by the petitioner and believed by me to be true.

Solemnly affirmed on oath by the said Mr......... pertaining to a Board Resolution dated ......... of construction India Private Ltd. in the Court of said Shimla on this ............. day of 1st January 2003.

Deponent