

[2022 LiveLaw \(Del\) 253](#)

IN THE HIGH COURT OF DELHI AT NEW DELHI

CORAM: HON'BLE MR. JUSTICE VIBHU BAKHRU

O.M.P. (COMM) 16/2020 & I.A. 438/2020 & I.A. 440/2020; 23.03.2022

RUIA EXPORTS & ANR. versus MONEYWISE FINANCIAL SERVICES PVT.LTD & ORS.

Arbitration and Conciliation Act, 1996 - Participation of any party is not sufficient to infuse life to arbitral proceedings if the award is void *ab initio* on the ground of ineligibility of an arbitrator. (Para 3)

Petitioners Through Mr. Gaurav Srivastava & Ms. Rashmi Kumari, Advs.

Respondents Through Mr. Shreyas Jain & Ms. Prachi Gupta, Advs. Mr. Shashank Garg, Adv. (Amicus Curiae)

ORDER

1. This Court has briefly heard Mr. Garg as to whether the arbitral award is sustainable. He has referred to a decision of the Coordinate Bench of this Court in ***Abraham Memorial Education Trust Vs. Prodigy Development Institution (earlier known as ATNT Infrastructure Services Pvt. Ltd)***: O.M.P. (COMM.) 391/2020 decided on 23.03.2021. This Court had held that the arbitral award was void *ab initio* since it was rendered by an arbitrator unilaterally appointed by the parties, which is impermissible.
2. The learned counsel appearing for the respondent does not dispute that unilateral appointment of an arbitrator is impermissible in view of the decision of the Supreme Court in ***Perkins Eastman Architects DPC & Anr. v. HSCC (India) Ltd.: 2019 SCC OnLine SC***. He, however, submits that since the petitioner had participated in the arbitral proceedings, it is precluded from raising objections on this ground.
3. *Prima facie*, if the award is void *ab initio* on the ground of ineligibility of an arbitrator, the participation of any party in the arbitral proceedings may not be sufficient to infuse life to the arbitral proceedings.
4. Undeniably, the question is a substantial one and requires consideration.
5. In view of the above, the enforcement of the impugned award is stayed.
6. List for further proceedings on 19.05.2022.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)