

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

(Th. Virtual Mode)

Arb P no.26/2026

NEPHROCARE HEALTH ...Petitioner(s)
SERVICES LTD TH ITS CLUSTE
HEAD PANKAJ JASROTIA

Through: Mr. Rameshwar Singh Jamwal, Advocate

Vs.

NEPHRO CARE DIALYSIS CENTER ...Respondent(s)
TH SANDEEP MENGI

Through: Mr. Paras Gupta, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE (ACTING)

ORDER

21.08.2026

01. This petition has been filed by the petitioner under Section 11 (6) of the Arbitration and Conciliation Act 1996 ["the Act"] for referring the disputes raised and the claims projected in the petition to an independent arbitrator for arbitration.

02. The petitioner, a Private Limited Company incorporated under the Companies Act, petitioner entered into a Contract Agreement dated 14.08.2024 with the respondent. The agreement, *inter alia*, contains an arbitration clause for resolution of disputes through arbitration.

03. According to learned counsel for petitioner a dispute has arisen between the parties due to breach committed by the respondent, as a result of which a civil suit was filed by the petitioner herein before the court of learned Sub Judge (Special Railway Magistrate) Jammu, in which a preliminary objection, and to this extent an application under Section 8 of the Arbitration and Conciliation Act, 1996, also filed, was taken by the respondent that since there was an arbitration clause in agreement, the civil suit was not maintainable, and accordingly, the said Court vide order/judgment dated 19.08.2025 dismissed the suit, directing parties to resolve their dispute through arbitration.

04. It is submitted by the learned counsel for the petitioner that after the dismissal of the suit the petitioner issued a legal notice invoking Arbitration under Section 21 of the Arbitration and Conciliation Act, 1996, for appointment of Arbitrator but despite due service of the said notice, the respondent has failed to appoint an arbitrator. Hence this application under Section 11(6) of the Act.

05. Learned counsel appearing for the respondent does not dispute the existence of the arbitration agreement contained in the Contract Agreement. However, it is

submitted by him that the disputes are liable to be adjudicated in accordance with the terms of the contract.

06. Having heard learned counsel for the parties and perused the material on record, I am of the considered opinion that the Contract Agreement executed between the parties contains an arbitration clause providing for resolution of disputes through arbitration. The record further reveals that disputes have admittedly arisen between the parties.

07. The petitioner initially approached the civil court. However, in view of the plea taken by respondent that arbitration clause is contained in the agreement, the parties have been directed to resolve their dispute through arbitration. Thereafter, the petitioner invoked the arbitration agreement by issuing notice calling upon respondent to appoint the Sole Arbitrator. Despite receipt of the notice, no appointment has been made.

08. The existence of an arbitration agreement between the parties is not in dispute. *Prima facie*, arbitrable disputes have arisen out of the Contract Agreement. Since the agreed procedure for appointment of the Arbitrator has failed, this Court is empowered to exercise jurisdiction under Section 11(6) of the Arbitration and Conciliation Act, 1996.

09. The petition is, thus, allowed and **Mr. Deepak Sethi, Retired District Judge**, is appointed as arbitrator to arbitrate the disputes that have arisen between the parties. The learned Arbitrator, upon receipt of a copy of this order, shall enter reference and put all the parties to notice before proceeding to determine the disputes within the framework of law. He shall charge his fee as per Fourth Schedule of the Act.

10. *Disposed of.*

(Sanjeev Kumar)
Chief Justice (Acting)

SRINAGAR:

21.08.2026

"S. Nuzhat"

