



IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA

11TH SEPTEMBER, 2026

ARBITRATION APPLICATION No. 56 OF 2024

1: MS GTM Builders And Promoters Pvt. Ltd.

--Petitioner

Versus

2: MS Fun Gateway Arena Pvt. Ltd.

--Respondent

Counsel for the applicant. : Mr. Gaurav Sindhwani, learned counsel
with Mr. Rishab Ranghar, learned
counsel.

JUDGMENT :

1. Heard learned counsel for the parties.

2. On 14.08.2026, the following order was passed by
this Court :-

"1. The present application has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator for deciding the dispute in respect of arrears of license fees under the License Agreement between the parties dated 30th October, 2023. The said agreement was followed by an addendum dated 15th May, 2024.

2. Clause 13f of the agreement provides for resolution of disputes between the parties arising out of the agreement by a sole Arbitrator, who shall be a retired High Court Judge, jointly nominated by the parties. The seat of Arbitration would be at Dehradun. Clause 13f is extracted below:-

*"f. In the event of any dispute, controversy, claim or conflict between the Parties arising out of or relating to this Agreement (including issues relating to the performance or non-performance of the obligations set out herein or the breach, termination or invalidity thereof) (a "**Dispute**"), such Dispute shall be referred to a sole arbitrator, who shall be a retired high court judge who is jointly nominated by the Parties. The arbitration proceedings shall be convened under the provisions of the Arbitration and Conciliation Act, 1996 and the award so granted by the sole arbitrator shall be final and binding on the Parties. The language of the arbitration shall be English, and the seat of the arbitration shall be Dehradun."*

3. The applicant had invoked the arbitration clause by a notice dated 11.09.2025. The notice was sent to the opposite party by registered post and the postal receipts evidencing the said fact have been filed at Page No.61 of the application. The



track consignment report of India Post has also been filed to prove service of notice on the opposite party.

4. However, according to the applicant, no reply has been submitted thereto by the opposite party. In the application invoking arbitration clause, the applicant has proposed name of three retired Judges of Delhi High Court, but as noted above, the notice has not been replied to by the opposite party and thus, in absence of consensus to the name of the Arbitrator, the applicant has been compelled to approach this Court for appointment of an Arbitrator.

5. It is noteworthy that in response to an earlier notice of the applicant dated 08.08.2025, the opposite party had given a reply and in Paragraph No.3 thereof, although liability to pay the arrears of license fees is admitted, the quantum has been disputed.

6. The opposite party has been duly served by registered post and on the previous date also, nobody appeared on behalf of the opposite party, but in the interest of justice, the matter was adjourned awaiting appearance. Today also, there is no representation on behalf of the opposite party.

7. Learned counsel for the applicant very fairly states that this Court may nominate any independent arbitrator, who may be a retired High Court Judge, and he has no objection to the same.

8. Having regard to the Arbitration agreement and the fact that the parties have failed to arrive at consensus on the name of the arbitrator, this Court is of the opinion that an independent arbitrator should be appointed to resolve the disputes between the parties.

9. The Court, accordingly, proposes the name of Mr. Justice Mehboob Ali, retired Judge Allahabad High Court (Mobile No.9473687398), R/o 90 Majra West, Near Masjid Majra, Dehradun as the sole Arbitrator to resolve the disputes between the parties arising out of the License Agreement. The seat of arbitration shall be at Dehradun.

10. Let necessary disclosures and consent in terms of Section 11(8) of the Act be obtained from the Arbitrator within two weeks and thereafter the matter be listed for further orders before the Court"

3. As per the office report dated 09.09.2026, the necessary disclosures and consent has been received from the proposed Arbitrator - Mr. Justice Mehboob Ali, retired Judge Allahabad High Court for being appointed as Arbitrator to resolve the dispute(s) between the parties.



4. Accordingly, Mr. Justice Mehboob Ali, retired Judge Allahabad High Court is appointed as Arbitrator to resolve the dispute(s) between the parties.
5. The office is directed to inform the Arbitrator to proceed.
6. The Arbitration Application stands disposed of accordingly.
7. Pending application, if any, also stands disposed of accordingly.

MANOJ KUMAR GUPTA, C.J.

Dt: 11th September, 2026
Rahul