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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR

ORDER  
IN  
S.B. Arbitration Application No.24/2015

S.B. Incorporeal Engineers, Architect  
& Structure Designers Vs. State of  
Rajasthan and Others

Date of order :: 29.04.2016

Present  
Hon'ble Mr. Justice Mohammad Rafiq

Shri Devidutt Sharma, counsel for applicant  
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By the Court:-

Present application has been filed by applicant seeking appointment of Arbitrator relying upon Clause 23 (misprinted as clause 21) of the agreement in question.

The said clause has not been considered as the arbitration clause in recent decision of a coordinate bench of this court dated 08.04.2015 in M/s. Mohammed Arif Construction vs. State of Rajasthan and Another - S.B. Arbitration Application No.90/2012, wherein it was held that in order to construe a clause to be an arbitration clause, it should have the attributes of an arbitration agreement, i.e. the parties should agree to refer the disputes, present or future, to the private tribunal; the private tribunal should be able to adjudicate upon the disputes in an impartial manner giving due and equal opportunity to the parties to put forth their case before it and the parties should have agreed that the decision of the private tribunal in respect of the disputes will be binding on them. It was further held that Clause 23 read with Clause 51 of the

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agreement in question, being not an arbitration clause or an arbitration agreement, as contemplated in Section 7 of the Arbitration and Conciliation Act, 1996, the provisions of the Act of 1996 could not be made applicable to the facts of that case.

In view of above, the present application does not survive and, therefore, is dismissed. It is needless to say that the applicant shall be at liberty to file appropriate proceedings before the appropriate Court as may be permissible under the law.

(Mohammad Rafiq) J.

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All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

Giriraj Prasad Jaiman  
DR



सत्यमेव जयते