

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Order delivered on: May 24, 2013*

+ **ARB.P. 78/2013**

M/S USHA CRAFT Petitioner
Through Mr.Subhasish Mohanty, Adv.

versus

M/S A.B HOTELS LTD Respondent
Through Ms.Surekha Raman, Adv.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J. (Oral)

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of a sole independent Arbitrator.
2. The case of the petitioner is that the petitioner has completed the works pertaining to the supply of furniture for Renovation of 77 Guest Rooms in Radisson Hotel to the satisfaction of the respondent. The petitioner informed that defect liability period of six months has expired on 6th October, 2012 and requested to the respondent to release its retention money of ₹4,12,285/- for the furniture supplied to the respondent. The respondent was asked to pay the said amount along with interest @18% per annum from 6th October, 2012. The notice of invocation of arbitration was issued by the petitioner on 7th

December, 2012. Since no reply to the said notice was given, the petitioner filed the present petition against the respondent.

3. Reply has been filed by the respondent. In the reply, it is stated that the petition is not maintainable as the position with regard to appropriation of retention money against the amount payable in terms of the agreement had been clarified to the petitioner. It is also stated that there was considerable delay in performance of the petitioner who has also failed to adhere to the terms and conditions of the agreement and committed breach thereof, therefore, the respondent was justified for appropriation of the retention money against the amount payable in terms of the agreement. The petitioner disputes the plea of the respondent. It is evident from the pleadings that the disputes exist between the parties as both parties have their own versions. It is not in dispute that there is an agreement between the parties which contains the arbitration clause.

4. Considering the overall facts and circumstances, the prayer of the present petition is liable to be allowed.

5. Accordingly, with the consent of the learned counsel for the parties, the disputes are referred to the arbitration, to be conducted under the aegis of Delhi High Court Arbitration Centre and its rules and the fee shall also be paid to the sole arbitrator as per rules thereof. The Arbitrator appointed by the Delhi High Court Arbitration Centre shall give prior notice before commencing the proceedings. The petition stands disposed of.

6. A copy of this order be communicated to the Secretary to the Arbitration Centre forthwith. Copies of the same be also given *dasti*

to the learned counsel for the parties.

(MANMOHAN SINGH)
JUDGE

MAY 24, 2013