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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ARB.P. 161/2013

MEENA MITTAL

..... Petitioner

Through Mr.Sanjay Goswami, Adv.

versus

SANJEEV GUPTA & ORS

..... Respondents

Through None

CORAM:**HON'BLE MR. JUSTICE MANMOHAN SINGH****ORDER**

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30.05.2013

The abovementioned petition has been filed by the petitioner under Section 11(5) of the Arbitration and Conciliation Act, 1996 for appointment of a sole Arbitrator. Notice was issued to the respondents.

Respondents No.1 to 5 have been served. Service report of respondent No.6 is awaited. Learned counsel for the petitioner states that the main respondents in the above said matter are respondents No.1 to 5. The prayer made in the petition be issued against the served respondents No.1 to 5. In view of the statement made by the counsel for the petitioner, respondent No.6 is deleted from the array of the parties. Let the amended memo of parties be filed by the petitioner within one week.

The case of the petitioner is that an agreement to sell dated 8th October, 2012 was entered into between the parties. The petitioner and the respondent No.6 have already paid a sum of ₹1 crore (Rupees One Crore) as part consideration under the said agreement to sell.

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The respondents No.1 to 5 assured the petitioner the suit property was free from all charges, liens, liabilities and encumbrances, and there were no dues of any statutory authorities against the said property.

It is further stated that the respondents claimed that they would have the property mutated in their names in the records of the MCD and also arrange the balance documents of title chain well within the time stipulated under the agreement for the balance payment and execution of the sale deed. By letter dated 26th December, 2012, the petitioner sought fulfilment of the said formalities, the respondents No.1 to 5 disputed their obligation by reply dated 28th December, 2012 to produce any such document and complete the formalities and instead insisted upon the petitioner to make the balance payment.

Doubting the title of the respondents No.1 to 5, the petitioner sent a legal notice dated 23rd January, 2013 calling upon the said respondents to complete the formalities and clarify certain discrepancies in the chain of title documents which was replied by reply dated 30th January, 2013.

The petitioner sent another legal notice dated 2nd February, 2013 invoking the arbitration clause contained the agreement to sell and requested to the respondents No.1 to 5 for referring the disputes which had since arisen between the petitioner and the respondents No.1 to 5, inter alia, concerning the claim of the petitioner for damages on account of breach of contract by the said respondents. Despite having received the same, the respondents have failed to respond to the same within the stipulated period. Hence, the present petition has been filed.

There is an arbitration agreement in existence between the parties and the claims appear to be live from the correspondence placed on record. Since the respondent has failed to appoint an arbitrator within stipulated

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time, for the reasons stated in the present petition, the prayer is allowed. Justice S.N. Aggarwal, a retired Judge of Madhya Pradesh High Court, is appointed as sole Arbitrator to adjudicate upon all the disputes and differences between the parties as mentioned in the petition in terms of the agreement to sell dated 8th October, 2012. The Arbitrator shall conduct the proceedings under the provisions of the Arbitration and Conciliation Act, 1996 and shall issue prior notice to the parties before commencing the proceedings. The arbitration shall be taken place under the aegis of Rules of the Delhi High Court Arbitration Centre. The fees of the Arbitrator be also paid under the said Rules.

The petition is disposed of in the above said terms.

A copy of this order be communicated to the learned Arbitrator as well as the Secretary to the Arbitration Centre forthwith. Copies of the same be also given *dasti* to the learned counsel for the parties.

MANMOHAN SINGH, J.

MAY 30, 2013/ka/jk