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

+ **ARB.P. 161/2016**

MAURYA PRINTERS PVT LTD Petitioner
Through: Mr. Himanshu Kapoor, Advocate.

versus

INTEC CAPITAL LTD Respondent
Through: Mr. Krishnendu Datta, Mr. Ashish Verma
& Mr. Jaspreet Singh Chawla, Advocates.

CORAM: JUSTICE S.MURALIDHAR

% **ORDER**
19.10.2016

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1. Learned counsel for the Petitioner has admittedly filed an application under Section 12 of the Arbitration & Conciliation Act, 1996 (the Act) before the Arbitrator, who has been appointed in terms of clause 32.1 of the Loan Agreement dated 31st January, 2012 entered into between the parties.

2. Learned counsel for the Petitioner submits that in terms of the said clause, the Arbitrator should have either been the Director or the Head, Commercial Business of the Respondent or “any other person nominated by him/them.” It is stated that the sole arbitrator has been appointed by the Respondent itself and not by its Director or Head of the Commercial Business.

3. The Court is unable to accept the above contention. Certainly the

Respondent being the Company could exercise the powers of its Director or the Head, Commercial Business.

4. It is then contended that the Respondent has a panel of arbitrators and, the Arbitrator appointed would be from among those in that panel. The submission is that the Arbitrator so appointed is unlikely to act impartially and, therefore his mandate should be terminated and another independent Arbitrator should be appointed by the Court.

5. As far as the above submission is concerned, the Court finds that the Petitioner has already filed an application under Section 12 of the Act seeking a disclosure by the Arbitrator of any interest that might give justifiable doubts as to his independence and impartiality. It is only after the Arbitrator makes a disclosure as mandatorily required under Section 12 of the Act as amended with effect from 23rd October, 2015 that it will be possible for the Petitioner to even contend that there are justifiable doubts about independence and impartiality of the Arbitrator. Therefore, the above apprehension, at this stage, is premature. The occasion for the Court to appoint an arbitrator at this stage does not arise.

6. The petition is accordingly dismissed.

IA Nos.3354/2016 & 7174/2016

7. In view of the dismissal of the petition, these applications do not survive and are accordingly disposed of.

OCTOBER 19, 2016
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S. MURALIDHAR, J.