

\$~17

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

+ ARB.P. 295/2016

XJ ELEVATORS INDIA PVT LTD Petitioner

Through Mr.Amique Khalid, Adv. with
Ms.Parika Gupta, Adv.

versus

SIMRAN LAL

..... Respondent

Through None.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER

%

30.08.2016

Respondent has been served. No one appears on behalf of the respondent when the matter is taken up. Under these circumstances, the respondent is proceeded *ex parte*.

The present petition has been filed by the petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator.

The brief facts of the case are that the petitioner was engaged by respondent to provide one elevator at her residence/project site i.e. 25-East Nizamuddin, New Delhi, for a total price of Rs.12,25,000/- inclusive of sale and installation for which an Elevator System Contract dated 29th February, 2012 was executed between them. The technical specifications of the elevator required to be installed, payment terms and schedule, preparatory building works and terms and conditions besides other were enumerated in the contract.

It is stated in the petition that the lift was installed, however, the payment as per schedule was not paid. The petitioner handed over the lift which was duly acknowledged by respondent vide handing over letter dated 14th August, 2013. The petitioner requested the respondent to clear the outstanding amount in terms of said contract. Petitioner on several occasions called upon the respondent to resolve the issue and release the outstanding payment. However, the respondent failed to pay the same.

There is an arbitration clause in the contract dated 29th February, 2012. Pursuant to a dispute between the parties, the petitioner by notice dated 14th July, 2015 invoked the arbitration clause and called upon the respondent for the appointment of arbitrator in failure to pay the amount due. The respondent, despite notice, has failed to make the outstanding payment. The respondent has also failed to appoint an arbitrator as demanded in the legal notice. Thus, the present petition has been filed.

In view of the averments made in the petition and documents placed on record, I am inclined to allow the present petition. As agreed, the matter is referred to the Delhi International Arbitration Centre ('DAC') who will appoint an Arbitrator in accordance with the provisions of the Act. The Arbitrator to adjudicate the disputes arising out of the agreement in question between the parties as mentioned in the present petition. The parties are also allowed to file their respective claims and counter-claims before the Arbitrator. Parties to appear before the Arbitrator on 6th October, 2016 for directions.

The arbitration shall take place under the aegis of DAC. The Arbitrator shall ensure the compliance of the provisions of Arbitration and Conciliation (Amendment) Act, 2015 before commencing the arbitration.

The fees of the learned Arbitrator shall be in terms of the schedule of the amended Act.

The petition is accordingly disposed of.

Copy of this order be given *dasti* to the learned counsel for the parties and a copy thereof be delivered to the Additional Coordinator, DAC forthwith.

AUGUST 30, 2016/jk

MANMOHAN SINGH, J.