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

+ **ARB.P. 312/2016**

M/S XJ ELEVATORS INDIA PVT. LTD. Petitioner
Through Mr.Amique Khalid, Adv. with
Ms.Parika Gupta, Adv.

versus

HEM SINGH VERMA 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 an elevator at his project site inclusive of sale and installation at a price of Rs. 10,95,000/- for which a contract dated 10th August, 2012 was executed between them and the same was signed on 12th September, 2012. 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 26th December, 2014. 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 10th August, 2012. Pursuant to a dispute between the parties, the petitioner by notice dated 13th February, 2016 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. Accordingly, Mr. Rakesh Kumar Dudeja, Advocate (Mob.9810147798) is appointed as sole Arbitrator to adjudicate the disputes 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 proceedings shall take place in the High Court premises itself. The Arbitrator shall ensure the compliance of the provisions of Arbitration and Conciliation (Amendment) Act, 2015 before commencing the arbitration. The fee of the learned Arbitrator is fixed at

Rs.60,000/- which shall be shared by both the parties in equal proportions. In case the respondent will not pay the amount, the petitioner will pay the same, subject to final adjustment of award amount.

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 learned Arbitrator forthwith.

AUGUST 30, 2016/jk

MANMOHAN SINGH, J.