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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 400/2016

BLENDZ FOODS PRIVATE LIMITED

..... Petitioner

Through: Mr. S.K. Narula, Advocate.

versus

LALIT THUKRAL & ANR.

..... Respondent

Through: None.

CORAM: JUSTICE S.MURALIDHAR

ORDER

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02.11.2016

1. It is seen that in terms of the arbitration clause in the agreement between the parties, the Arbitrator was to be appointed by mutual written consent. However, by letter dated 5th November, 2015, the sole Arbitrator was appointed unilaterally by the Respondent calling upon the Petitioner to file its statement of claim.

2. It is in the above circumstances when the sole Arbitrator proceeded to continue with the arbitration despite protest of the Petitioner that the present petition has been filed. On the previous date i.e., 24th August, 2016, the Respondent sought and was granted two weeks' time to file reply. Neither reply has been filed nor has the Respondent appeared through counsel despite a pass over. The Respondent is proceeded *ex parte*.

3. With the Petitioner stating that it does not have any claim as of date against the Respondent, the question of appointing an Arbitrator at the instance of the Petitioner does not arise. As far as the Respondent's claims are concerned, the Court is constrained to terminate the mandate of the sole Arbitrator appointed by the Respondent since it is contrary to the arbitration clause in the agreement between the parties. The Respondent is also restrained from seeking to proceed with the arbitration conducted by an Arbitrator unilaterally appointed by the Respondent.

4. The petition is disposed of in the above terms.

S.MURALIDHAR, J

NOVEMBER 02, 2016
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