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

+ **ARB.P. 590/2016 & IA No. 14301/2016**

CHAPMAN TAYLOR INDIA LLP.

..... Petitioner

Through Mr Manish Sharma, Mr Abhishek
Agarwal and Ms Chandni Mehra, Advocates.

versus

BRAHMA CITY PRIVATE LIMITED

..... Respondent

Through Mr Arjun Singh Bhati, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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21.11.2016

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act') praying that an arbitrator be appointed for resolution of the disputes that have arisen between the parties in relation to an agreement dated 19.10.2012. The said agreement contains an arbitration clause which is set out below:-

“17. GOVERNING LAW AND ARBITRATION

“This Agreement shall be governed by, and construed under the laws of India, excluding any conflict or choice of law provisions. Any claim, dispute or difference (including a dispute regarding the interpretation, existence, validity or termination of this Agreement) arising out of, or relating to, this Agreement will be resolved through joint discussions of the authorized representatives of the Parties. If any such claim, dispute or difference cannot resolved through such joint discussions within thirty (30) days of the date of the notice then the matter will be referred for adjudication by

arbitration in accordance with the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') by a sole arbitrator to be appointed in mutual consultation between the Parties, in the event the Parties are unable to appoint the arbitrator within 30 days of the end of the consultation period then the same shall be appointed in accordance with the Act. The venue for the arbitration will be New Delhi. The language of the arbitration hearing shall be English. The decision of the arbitrator shall be final and binding on the Parties.”

2. In view of the disputes that have arisen between the parties, the petitioner sent a legal notice dated 29.03.2016, *inter alia*, proposing the name of a person to be appointed as a Sole Arbitrator. The respondent replied to the aforesaid notice by its letter dated 25.04.2016 rejecting the petitioner's suggestion for appointment of that person as a sole arbitrator; in turn, it suggested another person to be appointed as the sole arbitrator, which was not acceptable to the petitioner.
3. The learned counsel appearing for the respondent submits that he does not dispute the existence of the arbitration clause. However, he submits that the petitioner ought to have made a serious attempt to resolve the disputes amicably before invoking the arbitration clause.
4. Mr Sharma, learned counsel appearing for the petitioner submits that in response to a similar suggestion made by the respondent in its letter dated 25.04.2016, a representative of the petitioner had met the concerned person (Mr Talwar) for an amicable resolution. However, the parties were unable to resolve the disputes. The aforesaid statement is not contested by the learned counsel for the respondent.
5. In the aforesaid circumstances, an arbitrator needs to be appointed. At

this stage, learned counsel for the parties state that they are agreeable if the parties are referred to the Delhi International Arbitration Centre (DIAC).

6. Accordingly, it is directed that an Arbitrator be appointed under the Rules of the Delhi International Arbitration Centre (DIAC). The representatives of the parties shall appear before the Co-ordinator, DIAC on 25.12.2016 at 11:00 AM. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.

7. The petition is disposed of. The pending application also stands disposed of.

VIBHU BAKHRU, J

NOVEMBER 21, 2016

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