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

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**O.M.P. (T) (COMM.) 57/2016**

NAVAYUGA ENGINEERING COMPANY LIMITED..... Petitioner

Through: Mr. Pranav Agrawala and Mr. J.S.  
Randhawa, Advocates.

versus

UNITECH HI-TECH DEVELOPERS LIMITED ..... Respondent

Through: Ms. Yanmi Phaeang, Mr. Rupal  
Mohinder, Advocates.

**CORAM: JUSTICE S.MURALIDHAR**

**ORDER**

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**15.12.2016**

1. Notice in this petition was issued in August 2016 and on 3<sup>rd</sup> October 2016 two weeks' time was granted to the Respondent to file reply "as a last opportunity". No reply has been filed. However, in the meanwhile, the petition was dismissed for non-prosecution on 8<sup>th</sup> November 2016 and restored on 15<sup>th</sup> November 2016.

2. Counsel for the Respondent seeks one more opportunity to file reply which does not appear to be reasonable considering that sufficient time has already been granted.

3. The main grievance in this petition is that despite the Arbitrator having been appointed on 27<sup>th</sup> May 2015, there has been no progress made by the Arbitrator in the matter and therefore in terms of Section 14 (1) (a) of the Arbitration & Conciliation Act, 1996 ('Act'), a case is made out for

termination of the mandate of the Arbitrator.

4. With there being no reply to the petition, there is no contravention of the facts stated therein. It does appear to the Court that the learned Arbitrator has failed to act without undue delay in the matter. The Court accordingly terminates the mandate of Mr. Ramesh Chandra, who was acting as Arbitrator.

5. The Court appoints Justice K.S.P. Radhakrishnan, a former Judge of the Supreme Court (Mobile No. 9560013636) as the sole Arbitrator to adjudicate the disputes between the parties including their claims and counter-claims. In the first instance, the learned Arbitrator will make a disclosure in terms of Section 11 (8) read with Section 12 (1) of the Act and, thereafter, enter upon reference. In the event the disclosure is not made within a reasonable time or such disclosure discloses the inability of the learned Arbitrator to act as such, it will be open to the parties to apply to this Court for directions. The learned Arbitrator shall fix his own terms and communicate them to the parties.

6. The parties are directed to appear before the learned Arbitrator on 17<sup>th</sup> January 2017 at 4 pm or such changed time and/or date that the learned Arbitrator finds convenient which will be communicated to the parties at least ten days in advance. The venue for the first hearing will be arranged by the Petitioner and communicated to the learned Arbitrator and the Respondent at least one week prior to the date fixed. The expenses for the hearing shall be equally shared by the parties.

7. The petition is disposed of in the above terms. A certified copy of this order be delivered to the learned Arbitrator forthwith.

**S.MURALIDHAR, J**

**DECEMBER 15, 2016**  
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