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

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**ARB.P. 623/2016**

MERA BABA INFRASTRUCTURE PVT. LTD. .... Petitioner

Through: Mr. Sanat Kumar, Senior Advocate with  
Mr. Asit Tewari, Advocate.

versus

HARI PRAKASH SINGH & ORS. .... Respondents

Through: Mr. Abhishek, Advocate for R-1.  
Mr. Sunil Dalal & Mr. Rahul Dabas,  
Advocates for R-2.

**CORAM: JUSTICE S.MURALIDHAR**

**ORDER**

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**29.11.2016**

1. Learned counsel for the Respondents raises an objection that the claim is a stale one and is barred by limitation.

2. As far as the above objection is concerned, after the insertion of sub-Sections 6A in Section 11 of the Arbitration & Conciliation Act, 1996 with effect from 23<sup>rd</sup> October, 2015, the examination by the Court in the present petition has to be confined to the existence of an arbitration agreement. All other questions have to be examined by the Arbitrator.

3. The existence of an arbitration clause in the agreement to sell dated 16<sup>th</sup> April, 2013 is not in dispute. The fact that the Petitioner invoked it by sending a legal notice dated 3<sup>rd</sup> September, 2016 is also not in dispute. In

fact, a reply has been sent to the said notice by the Respondent on 17<sup>th</sup> September, 2016.

4. Consequently leaving all the contentions of the parties on merits as well as on issues of limitation open to be decided by the learned Arbitrator, the Court proposes Mr. Justice Anil Kumar (Mobile No.9818000140), a former Judge of this Court be appointed as sole Arbitrator to adjudicate the disputes between the parties including their claims and counter-claims. The arbitration shall take place under the aegis of the Delhi International Arbitration Centre ('DAC'). In the first instance the proposed Arbitrator will make a disclosure to the DAC in terms of Section 11(8) read with Section 12(1) of the Act and thereafter enter upon reference. DAC will provide to the parties copies of the said disclosure. In the event the disclosure is not made within a reasonable time or such disclosure discloses the inability of the proposed Arbitrator to act as such, it will be open to the parties to apply to this Court for directions.

5. Subject to compliance with the above direction, Justice Anil Kumar will act as Arbitrator and enter upon reference. The fees of the learned Arbitrator will be in terms of the Delhi High Court Arbitration Centre (Arbitrators' Fees) Rules.

6. The petition is disposed of. A copy of this order be communicated to Justice Anil Kumar as well as Additional Coordinator, DAC forthwith.

**S. MURALIDHAR, J.**

**NOVEMBER 29, 2016**

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