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

+ **ARB.P. 655/2016**

**KISHAN LAL**

..... Petitioner

Through: Mr Ankit Jain, Advocate.

versus

**ARUN MEHROTRA & ANR.**

..... Respondents

Through: Mr Shekhar Aggarwal, Mr Ritesh Saxena and Mr Rahul, Advocates for R-2.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

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**01.12.2016**

1. Respondents have been served. However, none appears for respondent no.1.
2. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter the 'Act') for appointment of an Arbitrator to adjudicate the disputes that have arisen between the parties in relation to an Agreement dated 26.04.2012.
3. The said agreement includes an arbitration clause, which is set out below:-

“In case of any dispute arising out of this agreement, shall be decided by the owner and the contractor at 1st instance and in case of disagreement the dispute shall be referred for the arbitration to be Arbitrated by mutual agreed arbitrator as

agreed by both the parties. Otherwise subject to Delhi Jurisdiction only.”

4. It is stated that certain disputes have arisen between the parties in relation to the aforesaid agreement and, accordingly, the petitioner sent a legal notice dated 17.11.2015 calling upon the respondents to pay a sum of ₹24,03,653.90 along with interest and costs. This was followed by another notice dated 27.05.2016 invoking the arbitration clause. Admittedly, the parties have been unable to mutually agree for appointment of an Arbitrator.

5. The learned counsel appearing for respondent no.2 does not dispute the existence of the arbitration clause. He, however, submits that the demands made by the petitioner are disputed.

6. At this stage, it is not necessary to examine the merits of the disputes between the parties. Since there is no dispute as to the existence of the arbitration clause an Arbitrator is required to be appointed.

7. Accordingly, with the consent of the parties, 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 23.12.2016 at 11:00 AM. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.

8. The petition is disposed of.

**VIBHU BAKHRU, J**

**DECEMBER 01, 2016**  
**MK**