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

+ **O.M.P. (T) (COMM.) 76/2016 & I.A. 14392/2016**

VIJAY BIKHCHANDANI

..... Petitioner

Through : Mr Tarun Sharma, Mr B. Prabha,
Mr Akanksha Kapoor and Mr
sounyata Sharma, Advocates.

versus

SANJEEV ARYA

..... Respondent

Through : None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **25.11.2016**

1. The service is complete. However, none appears for the respondent.
2. The petitioner has filed the present petition under section 14 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act') seeking the termination of the mandate of the sole arbitrator, Mr Rakesh Chaudhary.
3. It is the petitioner's case that the petitioner has not consented to appointment of Mr Chaudhary and, therefore, he has no authority to act as a sole arbitrator to adjudicate the disputes that have arisen between the parties in relation to an agreement captioned "Agreement Between Owner and Contractor" executed on 09.09.2011.
4. The said agreement contains an arbitration clause which is set out below:-

"17. SETTLEMENT OF DISPUTE:

If at any stage any dispute arises between the owner and the

Contractor on interpretation of any clause of the agreement, the same shall be mutually discussed and sorted out. In case both the Contractor and the Owner are not able to resolve the issue amicably. The same shall be received through Arbitrator mutually appointed by both the owner and in Contractor.”

5. It is plainly clear from the arbitration clause that the arbitrator is to be mutually appointed by both the parties and a unilateral appointment would be of no consequence.

6. The petitioner had also sent a letter dated 02.11.2016 to the arbitrator, *inter alia*, stating that the petitioner has neither consented to his appointment nor for reference of the disputes to arbitration. Notwithstanding the same, it appears that Mr Chaudhary is continuing to conduct the proceedings as is apparent from the letter dated 07.11.2016.

7. Although, it is apparent from the above that Mr Chaudhary had no authority to act as an arbitrator, however, in my view, the present petition would also be not maintainable. This is so because, according to the petitioner, Mr Rakesh Chaudhary does not have the mandate to act as an arbitrator; therefore, the question of terminating his mandate does not arise.

8. The present petition is disposed of with the above observations. The pending application also stands disposed of.

9. Order *dasti*.

VIBHU BAKHRU, J

NOVEMBER 25, 2016

pkv