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

+ **ARB.P. 768/2016**

NITESH JAIN

..... Petitioner

Through: Mr Pankaj Bhagat, Advocate.

versus

KSHITIJ BHARDWAJ & ANR.

..... Respondents

Through: Mr Abhinav Srivastava, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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20.12.2016

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter the 'Act'), *inter alia*, praying that an Arbitrator be appointed to adjudicate the disputes that have arisen between the parties in relation to the Partnership Deed dated 01.10.2014. The said deed includes an arbitration clause, which is set out below:-

“24. **Dispute Resolution:** All issues, disputes and differences whatsoever which shall arise between the Partners or Partner(s) and legal heirs of any Partner pertaining to interpretation of any of the terms and conditions of this Deed or/and performance of obligations under this Deed shall be intimated by the disputing Partner to all the Partners in writing and the same shall then be referred to a sole arbitrator, appointed mutually by the all Partners. However, if Partners fail to appoint the arbitrator within 30 days from above intimation of dispute, the same shall be appointed in accordance with the provisions of Section 11(6) of the Arbitration and Conciliation Act, 1996, or any statutory modification or re-enactment thereof for the time being in

force. The language of the arbitration shall be English and the place of arbitration shall be at Delhi.”

2. In view of the disputes, the petitioner caused a letter dated 16.08.2016 invoking the arbitration clause and proposing the name of Ms Amrita Narayan as a Sole Arbitrator.

3. The aforesaid notice was responded to by the respondents by a letter dated 15.09.2016 wherein the respondents unequivocally stated that they accept the invitation of entering the Dispute Resolution Process, however, disputed the appointment of Ms Narayan as an Arbitrator. The respondents proposed names of three other advocates and called upon the petitioner to accept one of them to be appointed as an Arbitrator.

4. The learned counsel for the respondents does not dispute the existence of the arbitration clause. He, however, states that the petitioner has raised frivolous disputes only to harass the respondents.

5. At this stage, it is not necessary to examine the rival contentions. In view of the fact that the arbitration clause is not disputed, an Arbitrator is required to be appointed as the parties have failed to mutually agree for appointment of an Arbitrator.

6. With the consent of the parties, it is directed that an Arbitrator be appointed under the Rules of Delhi International Arbitration Centre (DIAC). The parties shall appear before the Co-ordinator, DIAC on 06.01.2017 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.

DECEMBER 20, 2016
MK

VIBHU BAKHRU, J