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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 623/2015

AMARDEEP S. DAHIYA

..... Petitioner

Through: Mr. Kartikeya Singh, Advocate.

versus

EMPEROR INTENATIONAL PRIVATE LIMITED..... Respondent

Through: Mr. Vijay Nair and Mr. Rahul Malhotra,
Advocates.

CORAM: JUSTICE S.MURALIDHAR

ORDER

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21.11.2016

1. The present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('Act') seeks appointment of an Arbitrator to adjudicate the disputes that have arisen between the parties in terms of a Memorandum of Understanding ('MOU') dated 2nd April, 2012.

2. The background to the present petition is that a cryptic notice was issued on 6th July, 2015 by the Petitioner to the Respondent purportedly invoking the arbitration clause in the MOU as under:

“Upon instructions of my client Sh.Amardeep Singh Dahiya S/oSh.Abhey Ram Dahiya ,R/oH.No.344, Sector-2, Panchkula, I hereby serve upon you to this notice invoking arbitration in terms of Clause of the Memorandum of Understanding dated 02.04.2015.”

You are, therefore, required to initiate appropriate action accordingly.”

3. In its reply dated 29th July, 2015, the Respondent *inter alia* stated that no dispute in fact arose in terms of the MOU and further that “the parties had subsequently entered into a settlement agreement subsequently entered into a settlement agreement, therefore, the arbitration clause in MOU cannot be raised, at this stage, as the MOU has been superseded by the settlement agreement.”

4. In view of the above stand, it is not at all clear as to what was the dispute raised by the Petitioner in terms of the arbitration clause dated 6th July, 2015. It is now sought to be stated that the settlement agreement is a forged document and prepared on papers on which the signatures of the Petitioner were taken forcibly. However, this does not appear to be the stand of the Petitioner when it first invoked the arbitration clause since the notice invoking it, as already mentioned hereinbefore, was cryptic without even describing what dispute was between the parties.

5. The Court is of the view that the invocation of the arbitration clause in the present case is vague and incomplete. Interestingly, the only date mentioned in the said notice is 2nd April, 2015 whereas correct date of the MOU is 2nd April, 2012. If that is the date of cause of action for the Petitioner then a further difficulty is that the notice invoking arbitration clause is beyond three years from that date.

6. In any event, the question whether the settlement agreement is forged or fabricated cannot possibly be examined at this stage in these proceedings. If that really is the cause of action, then the Petitioner has to seek other appropriate remedies in accordance with law.

7. The petition is, accordingly, dismissed.

NOVEMBER 21, 2016

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S. MURALIDHAR, J