

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

% **Order delivered on: 15th September, 2016**

+ **O.M.P. (T) (COMM.) No.17/2015**

OMTECH BUILDERS P LTD. Petitioner
Through Mr.R.Rajappan, Adv.

versus

P.M. MISRA Respondent
Through Ms.Priamvada, Adv.

CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J.

1. The petitioner has filed the present petition under Sections 14 and 15 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') for termination of the mandate of Arbitrator.

2. Brief facts of the case are that on 24th March, 2012, the petitioner had entered into a contract with the respondent for certain civil work comprising of the residential building including the supply of the building material and construction of structure to be built at A-45A, Sector-72, Noida (hereinafter referred to as the 'said property').

2.1 The petitioner had also entered into another subsidiary contract with the respondent on 2nd March, 2013, for the work of residential building including the supply of materials and finishing items for the said property.

The petitioner's case is that it had completed both the contracts as per the requirement of the respondent and in terms of

the above said contracts and specification within time in January, 2014 and on 18th July, 2014, the petitioner had submitted the final bills for both the contracts separately for an amount of Rs.85,94,017.65/- for the structural portion and for Rs.41,61,996.66/- for the finishing items.

2.2 Out of the total work executed for both the contract, the respondent had paid only Rs.1,05,00,000/- and the balance of Rs.22,64,013/- is remaining to be paid to the petitioner. The petitioner has been pursuing with the respondent ever since the work was completed for the settlement of account but the respondent has been evading for one or the other reasons.

3. Thereafter, the petitioner sent a legal notice on 1st May, 2015 through its counsel to the respondent for the balance payment of the bills for Rs.22,64,013/- along with interest @18% p.a.

4. As disputes arose out of the said contract, the petitioner had invoked the arbitration clause of both the agreements on 27th May, 2015 and appointed the named Arbitrator M/s. R.N. Gupta & Associates – The Consultants, to adjudicate the disputes.

5. It is alleged that the petitioner has been pursuing the appointed Arbitrator to proceed with the matter but no response has been received even after a lapse of more than three months.

6. The prayer is made that the mandate of the Arbitrator be terminated. In the present case, the only concern of the Court is whether such order can be passed or not.

7. It is presumed by the petitioner that the Arbitrator is not interested to proceed in the matter as he is an interested party being the Consultant Architect of the respondent. There is no

material available on record in support of this presumption. It is the petitioner who appointed the Arbitrator by alleging that he is merely an informal party in the matter, is not enough. There is no merit in the petition and the same is accordingly dismissed.

(MANMOHAN SINGH)
JUDGE

SEPTEMBER 15, 2016

