

\$~
*
3.
+

IN THE HIGH COURT OF DELHI AT NEW DELHI

ARB.P. 680/2015

AMIT KUMAR MUKHERJEE

..... Petitioner

Through: Mr. Atul Parmar, Mr. Sunil Kumar
Advocates.

versus

EARTH INFRASTRUCTURES LTD. (THROUGH: ITS
DIRECTORS)

..... Respondent

Through: Mr. Sunil K. Mittal, Advocate with
Mr. Kshitij Mittal, Advocate, Mr. Anshul Mittal
Ms. Vaishali Mittal, Advocates.

CORAM: JUSTICE S. MURALIDHAR

ORDER

18.10.2016

%

1. The arbitration clause in the present case reads as under:

“All or any disputes arising out of or touching upon or in relation to the terms of this Application Form (subsequent allotment of unit) including the interpretation and validity of the terms thereof and the respective rights and obligations of the parties shall be referred first to the consumer redressal forum of the CREDAI (NCR). The said allotment is subject to arbitration by the designated committee of arbitrators appointed by the CREDAI and the decision of the Arbitrator will be final and binding on all the parties failing which the same shall be referred to the sole arbitrator to be appointed by the Company. The arbitration proceedings shall be governed by the Arbitration & Conciliation Act, 1996 and/or any statutory amendments/modifications thereof for the time being in force. The arbitration proceedings shall be held at an appropriate location in Delhi/New Delhi. Subject to Arbitration as referred

above, the High Court of Allahabad and the Courts subordinate to it alone shall have jurisdiction in case of any dispute.”

2. Learned counsel for the Respondent points out that the Petitioner has not exhausted the procedure envisaged in the above clause, whereby, the disputes are to be first referred to the consumer redressal forum of the CREDAI (NCR) and only thereafter the aggrieved party can seek arbitration. Secondly, it is pointed out that it has been agreed that it would be the High Court of Allahabad and the courts subordinate to it which would exclusively would have jurisdiction. Learned counsel for the Respondent further states that the Respondent has indicated in its reply dated 3rd November 2015, that it would be appointing Mr. Bhanu Kathpalia, Advocate, as sole Arbitrator.

3. Learned counsel for the Petitioner, on the other hand, states that the Respondent has its registered office in Delhi, although the Petitioner is a resident of Noida, the cause of action arose within the jurisdiction of this Court.

4. The flat in question was to be constructed in Greater Noida and therefore the clause in question expressed the intention of the parties to confer the jurisdiction exclusively on the High Court of Allahabad and the Courts subordinate to it, to the exclusion of the other Courts. Such a clause cannot be considered to be invalid since part of cause of action arose within the jurisdiction of the Allahabad High Court.

5. In that view of the matter, the Court is not inclined to entertain the present petition. However, it is made clear that the Arbitrator appointed by the Respondent, if he has not already done so, should now proceed in the

matter, in accordance with law.

6. The petition is disposed of in the above terms.

OCTOBER 18, 2016
mg

S. MURALIDHAR, J