

\$~2

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

+ **ARB.P. 124/2017**

IMPROVE VYAPAAR PVT.LTD.

..... Petitioner

Through: Mr Vikas Arora and Ms Radhika
Arora, Advocates.

versus

VVA DEVELOPERS (P) LTD & ORS.

..... Respondents

Through: Mr Naresh Kaushik and Mr Joymoti
Mize, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

28.02.2017

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 connection with the Memorandum of Understanding (hereafter 'the MoU') dated 18.03.2013. The said MoU contains an arbitration clause, which is set out below:-

“15. That, both the parties agree that in case of any disputes arising out of the terms & conditions or the interpretation of this M.O.U., or for the resolution of any dispute on any matter related to the said company and their directors, the same shall be referred to a sole Arbitrator who shall be appointed with mutual consent of both parties and who shall resolve the disputes in accordance with the provisions of the Arbitration and Conciliation Act 1996 and his decision thereon, shall be binding on all the parties of this M.O.U. In case, any party is not satisfied with the decision of the arbitrator, then it will be free to go to any court of New Delhi for resolving the dispute.”

2. The learned counsel appearing for the respondent does not dispute the existence of the MoU or the arbitration clause and submits that the arbitration be conducted under the aegis of Delhi International Arbitration Centre (DIAC). The petitioner had issued a notice dated 03.09.2016 invoking the arbitration clause and in view of the disputes between the parties, an arbitrator is required to be appointed.

3. Accordingly, Mr Justice R.C. Jain (Retired) (Mobile No. 9818000380), a former Judge of this Court is appointed as a Sole Arbitrator to adjudicate the disputes between the parties. This is subject to the arbitrator making the necessary disclosure under Section 12 of the Act and not being ineligible 12(5) of the Act.

4. It is further directed that the arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules. The parties shall appear before the Co-coordinator, DIAC on 31.03.2017 at 11:00 AM. The parties are at liberty to approach the arbitrator for eliciting the necessary disclosure prior to the said date.

5. In the event, the necessary disclosure is not made for any reason or the arbitrator is unable to accept the appointment, the parties are at liberty to revive the present petition.

6. The petition is disposed of.

VIBHU BAKHRU, J

FEBRUARY 28, 2017
MK