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

+ **O.M.P. (T) (COMM.) 15/2017**

B.S. SANGWAN

..... Petitioner

Through: Mr S. W. Haider and Mr Ajeet Patel,
Advocates.

versus

UNION OF INDIA

..... Respondent

Through: Mr Jagjit Singh, Senior Standing
counsel with Mr Preet Singh,
Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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01.05.2017

1. This is a petition filed by the petitioner under Section 14 & 15 of the Arbitration and Conciliation Act, 1996 (hereafter the 'Act').
2. Certain disputes have arisen between the parties in relation to the works pertaining to linking of track from km. 30.131 (excluding Bhogpur Sirwal) to km.37.000 including Cholang Yard in connection with Jalandhar-Pathankot-Jammu Tawi Doubling, which was awarded to the petitioner by the respondent.
3. In view of the aforesaid disputes, the petitioner invoked the arbitration clause by a letter dated 11.04.2008. The respondent constituted the arbitral tribunal on 23.01.2009. However, certain disputes were not referred to arbitration. Consequently, the petitioner was constrained to file an

application under Section 11 of the Act (ARB.P.42/2010) with regard to certain disputes, which had not been included in the reference. The aforesaid petition was allowed by an order dated 12.07.2010 and the remaining claims were also referred to the arbitral tribunal.

4. It is stated that the arbitral tribunal commenced proceedings. The last hearing was held on 05.09.2014 after which no hearing has been held. In the circumstances, the petitioner has filed the present petition praying that the mandate of the arbitral tribunal be declared to be terminated and the arbitrator be appointed in place thereof.

5. It is seen that the petitioner's claim amount aggregates to ₹33,76,635/- and thus, it is not feasible to appoint an arbitrator tribunal of three members to consider the said claims. Mr Singh, learned counsel appearing for the respondent has no objection if a sole arbitrator is appointed in place of the arbitral tribunal consisting of 3 members.

6. Accordingly, Mr A.K. Garg, ADJ (Retired) (Mobile No.9871158800) is appointed as the sole arbitrator. This is subject to the arbitrator making the necessary disclosure under section 12 of the Act and not being ineligible under section 12(5) of the Act. The parties are at liberty to approach the arbitrator for eliciting the necessary disclosure and for further proceedings. The arbitrator shall fix the fees in consultation with the counsel for the parties.

7. It is clarified that the proceedings shall continue from such stage as before the arbitral tribunal and the parties shall file the relevant records before the arbitrator.

8. The petition is disposed of.

MAY 01, 2017
MK

VIBHU BAKHRU, J