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

+ **ARB.P. 179/2017**

**KIXX MEDIA PVT. LTD.**

..... Petitioner

Through: Mr Kunal Singh and Mr Indranil  
Ghosh, Advocates.

versus

**JYOTI SHARMA NEE UPADHYAY**

..... Respondent

Through: Ms Kanti Mohan Rustagi and Mr  
Shubho Jana, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

% **18.04.2017**

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 relation to an agreement dated 12.04.2014 captioned as the "Bond Agreement". The said agreement includes an arbitration clause, which reads as under:-

“10. Any dispute or difference arising out of this Agreement shall be resolved through Arbitration. The sole Arbitrator, appointed in consultation with parties shall conduct such Arbitration. The venue shall be in New Delhi, India.”

2. The petitioner had invoked the arbitration clause by its notice dated 18.07.2016. An arbitrator has not been appointed as the parties have been

unable to concur on appointment of the arbitrator.

3. The learned counsel for the respondent does not dispute the execution of the Bond Agreement. However, he states that the said agreement is invalid. He further contends that undue influence was exerted on the respondent to execute the said agreement.

4. At this stage, it is not necessary to examine whether the Bond Agreement is valid and enforceable. Since it is not disputed that the respondent had executed the Bond Agreement, it is necessary that an arbitrator be appointed to adjudicate the disputes. It is well settled that an arbitration clause is independent and is severable from the main agreement. Thus, appointment of the arbitrator will not preclude the respondent from raising all her contentions.

5. The learned counsel for the petitioner further states that an Arbitrator would also be empowered to examine the question whether the present agreement was executed by the respondent by undue influence or coercion.

6. In the circumstances, Ms Pooja Saigal, Advocate, (Mobile No. 9810137113) is appointed the arbitrator to adjudicate the disputes between the parties. This is subject to the arbitrator making the necessary disclosure under Section 12(1) of the Act and not being ineligible under Section 12(5) of the Act.

7. Needless to mention that the respondent would also be at liberty to file counter claims including for costs before the arbitrator which shall be considered on merits.

8. The parties are at liberty to approach the Arbitrator for eliciting

necessary disclosure and for further proceedings.

9. The petition is disposed of.

**APRIL 18, 2017**  
**MK**

**VIBHU BAKHRU, J**