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

+ O.M.P.(T) 11/2016

PRABIR KUMAR SEN Petitioner

Through Mr.Rajinder Singh, Adv.

versus

EARTH GLACIA BUILDCON PVT. LTD. AND

ANR. Respondent

Through None

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **24.07.2017**

1. Present petition is filed under section 14 and 15 of the Arbitration and Conciliation Act, 1996 seeking to terminate the mandate of Shri Bhanu Kathpalia (Advocate), Sole Arbitrator and also seeking a direction for appointment of an independent person to adjudicate the dispute between the parties.
2. The brief facts are that the petitioner was approached by representative of respondent No.1 to book a flat in the project of the respondent. Advance payments of 20% of total basic sale price has been paid by the petitioner.
3. Disputes having arisen between the parties the petitioner is said to have sent a legal notice to the respondents. In reply the respondent on 28.6.2016 under exercise of power under section 11 of the Act appointed Shri Bhanu Kathpalia, Advocate, as a Sole Arbitrator. The grievance of the petitioner is that the said learned Arbitrator has not filed any declaration under section 12 of the Arbitration & Conciliation Act. The only declaration that was made by the learned Arbitrator was as follows:-

"It is hereby informed to the parties that the undersigned is Practicing Advocate in Tis Hazari Court and this declaration is made in view of Section 12 of the Arbitration and Conciliation Act'.

4. It is the case of the petitioner that apart from not making a declaration under section 12, the Arbitrator is conducting several cases of respondent No.1 company. In fact, it was on this basis that on 2.9.2016 an interim order was passed restraining the learned Arbitrator from proceeding further in the matter.

5. Today, none has appeared for the respondent. Despite number of opportunities no reply has been filed by the respondents.

6. As per section 12 (1) of the *Explanation 2* the disclosure has to be made by the learned Arbitrator in the form specified in the Sixth Schedule. The so-called disclosure said to have been made by the Arbitrator in the present case is not in compliance with the Sixth Schedule. Non compliance of the above provisions of Section 12 lead to a strong suspicion about the disqualification of the Arbitrator under Seventh Schedule of the Act. Accordingly, in terms of section 14 and 15 of the Act the mandate of the Arbitrator is terminated.

7. At this stage, learned counsel for the petitioner states that they have approached the District Consumer Forum and do not wish to further proceed in the arbitration proceedings.

8. Petition stands disposed of. All pending applications, if any, also stand disposed of.

JAYANT NATH, J

JULY 24, 2017

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