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

+ **ARB.P. 707/2016**

SIMPLEX PROJECTS LIMITED Petitioner

Through: Mr S.D. Singh and Mr Jitender Singh,
Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL Respondent

Through: Ms Kanika Agnihotri, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **06.01.2017**

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act') praying that an Arbitrator be appointed to adjudicate the disputes that have arisen between the parties in connection with the agreement dated 25.04.2008.
2. The respondent had floated a tender for improvement/upgradation of Talkatora Indoor Stadium and invited bids for the same. The petitioner had submitted its bid, which was accepted by a letter dated 17.04.2008 and the contract for the said works were awarded to the petitioner. Subsequently, an agreement dated 25.04.2008 was entered into between the parties. It is stated that works in question were completed in the year 2010 and the said site is stated to have been handed over on 19.04.2010.
3. The Petitioner's grievance is that claims in relation to the works executed have not been settled. In view of the disputes between the parties,

the petitioner invoked the arbitration agreement (arbitration clause) by its letter dated 15.07.2014. However, the respondent has failed and neglected to appoint the arbitral tribunal.

4. The notice in the present petition was issued on 11.11.2016 on the said date, the learned counsel for the respondent sought time to take instructions/file a reply and two weeks time was granted to the respondent to do so. The matter was thereafter listed on 09.12.2016. Despite sufficient time, the respondent has not filed any reply to the present petition. Accordingly, the present petition has been taken up in absence of the any reply opposing the present petition.

5. Ms Agnihotri, the learned counsel for the respondent submitted that although respondent does not dispute the existence of the arbitration clause or the agreement, there would be a question of delay and the claims may be barred by limitation.

6. The learned counsel for the petitioner has drawn the attention of this Court to the minutes of the meeting held on 22.07.2014, which indicates that the parties had decided that respondent would finalise the petitioner's bill within a period of four months, by 30.11.2014, and till the said period, the petitioner's prayer for appointment of an arbitrator could be kept in suspension. The petitioner states that although substantial time has elapsed, its dues have not been paid.

7. At this stage, it is not necessary to examine the rival contention as to the merits of the disputes. Since the arbitration clause is not disputed, it is necessary that an arbitrator be appointed to adjudicate the disputes between

the parties.

8. Accordingly, Mr S.M. Aggarwal, ADJ (Retired) (Mobile No. 9891983608) is proposed to be appointed as an arbitrator to adjudicate the disputes between the parties. The Registry of this Court is directed to communicate a copy of this order to the proposed Arbitrator for eliciting a disclosure under Section 12 of the Act. The parties are also at liberty to approach the proposed Arbitrator for obtaining necessary disclosure. The proposed arbitrator/parties may file the said disclosure within a period of two weeks.

9. List on 09.03.2017.

10. *Dasti.*

JANUARY 06, 2017
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VIBHU BAKHRU, J