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

+ **ARB.P. 766/2016**

M/S B.L. KASHYAP & SONS LTD Petitioner

Through **Mr.H.S.Kohli and Mr.Nitin, Adv.**

versus

M/S MIST AVENUE PVT LTD Respondent

Through **Mr.Ravi Krishan Chandna and
Ms.Sadhna Sharma, Adv.**

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **28.07.2017**

IA No.5760/2017

This is an application seeking disposal of the petition or early hearing of the petition.

Application is allowed.

ARB.P. 766/2016

1. Present petition is filed under section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator for reference of the dispute to the said Arbitrator.
2. Some of the relevant facts are that the parties entered into a contract whereby the petitioner was to execute civil and structural work at the Plot No.1 Sector 143-B, Noida, Uttar Pradesh. Though the date of the contract agreement is blank, however, the stamp paper is purchased on 28.7.2014.
3. Disputes having arisen between the parties the petitioner is said to have sent a legal notice on 27.7.2016 invoking the arbitration clause. It is the

case of the petitioner that there exists an arbitration clause. A perusal of the said clause 20 shows that it states that in case the parties are not able to resolve their disputes a Sole Arbitrator shall be appointed by the parties by mutual consent.

4. Learned counsel for the respondent denies that they have received a copy of the legal notice said to have been sent by the petitioner on 27.7.2016. He submits that hence there is no invocation of the arbitration clause.

5. *De hors* the controversy raised by the respondent, it is manifest that the petition has been filed by the petitioner seeking appointment of an Arbitrator and hence, there has been an invocation of the arbitration clause. It is also clear that the parties are not at *ad idem* on appointment of an Arbitrator.

6. Accordingly, I appoint Shri.B.B.Gupta, Senior Advocate (Mobile No.9811348989) as the Sole Arbitrator to adjudicate the dispute between the parties. The Arbitrator will function under the aegis of Delhi International Arbitration Centre.

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

8. A copy of this order be sent to the DIAC.

JAYANT NATH, J

JULY 28, 2017

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