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

+ ARB.P. 779/2016

AMIT AGRAWAL & ANR.

..... Petitioners

Through: Mr. Chandra Shekhar and Mr.
Prashant Shekhar, Advocates

versus

M/S. BHASIN INFOTECH &
INFRASTRUCTURE PVT. LTD.

..... Respondent

Through: Mr. Ravi Kishan Chandna and Ms.
Bindiya Logawney, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **18.01.2017**

1. The petitioners have filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that the Arbitrator be appointed to adjudicate the disputes that have arisen between Ms Munni Agrawal, sole proprietor of Dauji Industries (arrayed as petitioner no.2) and the respondent in connection with the agreement (Provisional Allotment Letter) dated 21.05.2008.

2. The said agreement includes an arbitration clause, which is set out below:-

“All or any disputes arising out of or touching upon or in relation to the terms of the Provisional Allotment Letter including the interpretation and validity of the terms thereof and the respective rights and obligations of the

parties shall be settled amicably by mutual discussion failing which the same shall be settled through arbitration. The arbitration proceedings shall be governed by the Arbitration & Conciliation Act, 1996 or any statutory amendments/ modifications thereof for the time being in force. The arbitrator shall be appointed by the Company. The arbitration proceedings shall be held at an appropriate location in Delhi/ New Delhi. The Courts at Delhi alone shall have jurisdiction in all matters arising out of/ touching and/ or in connection with this provisional allotment.”

3. The learned counsel for the respondent does not dispute the existence of the agreement or the arbitration clause. He, however, submits that the notice of invocation of arbitration dated 12.05.2016 was not on behalf of Ms. Munni Agrawal since the said notice was issued on behalf of Sh. Amit Kumar Agrawal, who admittedly, is not a party to the agreement.
4. The learned counsel appearing on behalf of petitioners submits that Sh. Amit Kumar Agrawal is the son of Ms. Munni Agrawal and has been looking after the affairs of his mother including her sole proprietorship concern.
5. Be that as it may, it is clear that the letter of invocation is not on behalf of Ms. Munni Agrawal and therefore, the respondent's contention that since the agreement exists only between Ms. Munni Agrawal and respondent, the arbitration clause could only be invoked by her or on her behalf, is merited.
6. It is seen that a legal notice was issued on 02.07.2015 on behalf of Shri Dauji Industries calling upon the respondent to amicably resolve the disputes. However, admittedly the parties were unable to resolve the

disputes.

7. At this stage, the learned counsel for the petitioners states that the present petition may be treated as a communication for invocation of the arbitration clause by petitioner no.2. The learned counsel for the respondent has no objection to the same. Accordingly, the present petition would be treated as a communication of invocation of the arbitration clause. The respondent shall appoint an independent Arbitrator within a period of four weeks from today. It is clarified that on failure to do so, petitioner no.2 would be at liberty to approach this Court.

8. The petition is disposed of.

VIBHU BAKHRU, J

JANUARY 18, 2017

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