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

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**ARB.P. 786/2016**

SHIKHAR DHAWAN

..... Petitioner

Through: Mr. Vishesh Issar, Advocate.

versus

PERCEPT LIMITED THROUGH: ITS DIVISION PERCEPT

D'MARK & ANR.

..... Respondents

Through: Ms. Malavika Lal, Advocate for R-1.

Ms. Shweta Gupta, Advocate for R-2.

**CORAM: JUSTICE S. MURALIDHAR**

**ORDER**

**28.02.2017**

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1. Learned counsel for Respondent No.1 says, on instructions, that they have no objection to the Petitioner being a co-claimant with Respondent No.1 in the arbitration between Respondent No.1 and M/s. Pranaam Mega Structures ('PMS').

2. Learned counsel for the Petitioner on the other hand points out that in the event of failure of Respondent No.1 to recover its dues from PMS in the arbitral proceedings, the Petitioner should still be able to pursue his remedy against the Respondent No.1.

3. There is merit in the submission of learned counsel for the Petitioner. The Petitioner's remedy against Respondent No.1 emanates from the agreement

that he has with Respondent No.1. That cannot be foreclosed on account of the arbitration proceedings between Respondent No.1 and PMS, although, as pointed out by counsel for Respondent No.1, those proceedings have been instituted only to recover dues owing to the Petitioner.

4. The disputes between Respondent No.1 and PMS have already been referred to arbitration under the aegis of the Delhi International Arbitration Centre ('DAC'). It is stated that Respondent No.1 has already filed its claim in the said proceedings.

5. In the circumstances, the Court directs that a Sole Arbitrator be appointed to adjudicate the disputes between the Petitioner and Respondent No.1 including their claims and the counter claims. The Arbitrator will function under the aegis of the DAC.

6. For further steps in this regard, both parties will appear before the Additional Coordinator, DAC at 11 am on 9<sup>th</sup> March 2017. It will be open to the parties to opt for the same Arbitrator who is adjudicating the disputes between Respondent No.1 and PMS.

7. It is agreed by the Petitioner and Respondent No.1 that Respondent No.2 is only a proforma party and need not be a party to the arbitration proceedings.

8. The petition is disposed of in the above terms.

9. A copy of this order be sent to the Additional Coordinator, DAC

forthwith. Order *dasti*.

**FEBRUARY 28, 2017**  
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**S. MURALIDHAR, J**