

\$~OS-4

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

+ ARB.P. 549/2017

HI-TECH GEOSYNTHETICS PVT. LTD. .... Petitioner  
Through Mr.Durgesh Pal and Ms.Archana  
Singh, Advs.

versus

ERA INFRA ENGINEERING LTD. .... Respondent  
Through None.

**CORAM:**  
**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**  
**11.10.2017**

%

1. This petition is filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act) seeking appointment of a sole arbitrator.
2. It is the case of the petitioner that they were given a letter of intent on 25.06.2010 for the work of construction of REW (Reinforced Soil Wall) at different chainages of Rohtak Bypass, Haryana by the respondent. The petitioner on account of disputes having arisen between the parties on 12.02.2015 served a statutory notice under Sections 433 and 434 of the Companies Act. Thereafter, it also filed a criminal complaint against the Directors of the respondent under Section 200 of the Cr.P.C. On 13.01.2017, a notice invoking the arbitration clause was also served.
3. Respondent have been served but none is appearing for them. They

are proceeded ex parte.

4. The agreement between the parties contains an arbitration clause being clause 2.6 which provides that in case of disputes, the matter shall be referred to the sole arbitrator i.e. Managing Director of the Era Infra Engineering who may further appoint any person.

5. In view of the judgment of the Supreme Court in the case of ***TRF. v. ENERGO ENGINEERING PROJECTS LTD. & ANR. 2017(7) SCALE 162***, the Managing Director of the respondent cannot be appointed as a sole arbitrator nor can he nominate any person to be appointed as the sole arbitrator.

6. Accordingly, Shri Pushbhinder Bansal, Advocate (Mobile No.9868151205) is appointed as a sole Arbitrator to adjudicate the disputes between the parties who will fix his fees in consultation with the learned counsel for the parties. He will also file necessary declaration as per Section 12(1) of the Act.

7. A copy of this order be sent to the learned Arbitrator.

8. Petition stands disposed of.

**JAYANT NATH, J**

**OCTOBER 11, 2017**

**rb**