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

+ O.M.P. (T) (COMM.) 30/2018 & I.A. No.4994/2018

INTERSTATE CONSTRUCTION COMPANY Petitioner

Through: Mr. M. Lall, Advocate

versus

NATIONAL PROJECTS CONSTRUCTION
CORPORATION LTD.,

..... Respondent

Through: Mr. Rajat Arora, Advocate

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **31.05.2018**

1. The petitioner has filed the present petition under Section 15(2) of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that an arbitrator be appointed in place of Mr. L. R. Gupta, who has since expired. The learned arbitrator had rendered an interim award dated 03.08.2007, which was challenged before this Court in O.M.P. 537/2007. The said application was disposed of by this Court by an order dated 30.01.2017 clarifying that if another arbitrator is appointed, and either the same or fresh claims are filed by the respondent then, irrespective of the interim award impugned in OMP 537/2007, all pleas of the respondent including as to the maintainability of such claim be left open to be urged.

2. Since the Arbitrator appointed by this Court has resigned and has since expired, Justice R. C. Jain (Retired), a former Judge of this Court is appointed as a sole arbitrator in place of late Shri L.R. Gupta. It is clarified

that all contentions of the parties, including as to the maintainability of the claim as well as the authority of the petitioner to raise such claim, would be considered by the Arbitral Tribunal. It will be open to the Arbitral Tribunal to adjudicate whether the petitioner had abandoned its claim since the petitioner had not taken any effective steps after 03.08.2007.

3. The petition and the pending application are disposed of.

VIBHU BAKHRU, J

MAY 31, 2018

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