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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 31/2018**
PRERNA MARKETING PVT. LTD.

..... Petitioner

Through : Mr.Sandeep Singh Hora, Advocate.

versus

**INDIA TOURISM DEVELOPMENT CORPORATION LIMITED &
ANR.**

..... Respondents

Through : Mr.Sushant Kumar, Ms.Shikha Singh,
Mr.Anitesh Sharma, Advocates.

CORAM:
HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **17.01.2018**

IA No.742/2018

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

ARB.P. 31/2018

The learned counsel for the petitioner submit a license deed was executed between the parties on 09.04.2013 which contains an arbitration clause:

“V. APPLICABLE LAWS & NOTICE

I. In respect where provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 can be invoked by the Licensor in respect of the Licensed Space the provisions of the said Act shall apply.

II. In respect of any other dispute or difference relating to the terms of his

License Deed, the matter shall be referred to the sole arbitration of the Chairman & Managing Director of ITDC or any other person appointed by him in this behalf. The award given by the Arbitrator shall be binding upon the parties. It is specifically agreed by the Licensee that it will have no objection to any such appointment that the arbitrator so appointed is an employee of the Licensor or he has already expressed view on, for or any of the matters in dispute or difference. The arbitrator so appointed shall have power to extend the time for making an award. The said Arbitrator shall act under provisions of the Arbitration and Conciliation Act, 1996. Except as above, only Delhi Courts will have jurisdiction.”

The learned counsel for the petitioner submit the right to refer the matter to the sole arbitration of the Chairman and/or Managing Director of the respondent or any other person appointed by him has been turned down by the supreme court in *TRF Limited vs Energo Engineering Projects Limited* (2017) 8 SCC 377.

It is argued by the learned counsel for the respondent that no claim which can be dealt with under the public premise (Eviction of Unauthorised Occupants) Act 1971 be referred to the arbitration. I agree.

The learned counsel for the petitioner today has filed a note

containing disputes/claims and he is directed to place it on record.
Copy of the note is handed over to the respondent counsel.

In the circumstances, the disputes qua the terms of the contract(not covered under the Public Premises Act (supra) are been referred to the arbitration of the Mr. Justice H.R.Malhotra (retd.) (mobile No.9818000400). The arbitration shall be conducted under the aegis of DIAC and its fee schedule shall be applicable.

Petition stands disposed of. Parties appear before the learned arbitrator on 01.02.2018.

YOGESH KHANNA, J

JANUARY 17, 2018
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