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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 109/2018

TOMAR & CO.

..... Petitioner

Through: Mr.S.W.Haider, Adv.

versus

UNION OF INDIA

..... Respondent

Through: Mr.Himanshu Upadhyay, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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25.07.2018

This petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner seeking appointment of a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the work pertaining to "Bhadiyan-Sultanpur:- Section (Zone-II):- Linking of BG track & turnouts, provision of glued joint & SEJ, dismantling of existing track & turnouts, handling, lifting, loading, unloading and spreading of ballast, leading of P.Way materials and other misc. works in between Bhadiyan (including) and Sultanpur (excluding) station in connection with balance 148 km doubling of Zafrabad-Utratia of Lucknow Division", awarded to the petitioner vide Acceptance letter dated 25th July, 2012.

Disputes having arisen between the parties, the petitioner vide its Letter dated 30th November, 2017 invoked the Arbitration Agreement contained in Clause 64 of the General Conditions of Contract. Having received no response from the respondent, the

present petition has been filed.

Counsel for the respondent submits that the petitioner has executed a Supplementary Agreement as also a letter dated 7th October, 2016 acknowledging that all payments due under the contract have been received by it and therefore, there is no dispute which requires adjudication by the Arbitrator.

In my view, as the existence of the Arbitration Agreement and due invocation thereof is not denied by the respondent, I see no impediment in appointing a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the above-mentioned Acceptance Letter/ Agreement. Whether, with the execution of the Supplementary Agreement and/or the letter dated 7th October, 2016, there was a full and final discharge of the liability of the respondent or not, is to be determined by the Arbitrator.

I appoint **Mr.Vinod Jain**, Retired District and Sessions Judge, Punjab, R/o Road No.33, Kothi No.3, 3rd Floor, Punjabi Bagh, West Extension, New Delhi, Mobile-9468178585 as the Sole Arbitrator. The Arbitrator shall give his disclosure statement under Section 12 of the Act before proceeding with the reference.

The petition is allowed in the above terms with no order as to costs.

NAVIN CHAWLA, J

JULY 25, 2018
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