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

+ **ARB.P. 254/2018**

SUNLIGHT PROJECT PVT.LTD. Petitioner

Through: Mr. Sandeep Sharma and Mr. Aman
Dhyani, Advs.

versus

DELHI DEVELOPMENT AUTHORITY Respondent

Through: Ms. Kanika Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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17.07.2018

This petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner praying for appointment of an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Allotment Letter dated 04.05.2007 issued by the respondent in favour of the petitioner with respect to Commercial Plot no. 8, Service Centre, Sector 20, Part-II, Dwarka, New Delhi.

The said plot was allotted in favour of the petitioner pursuant to an auction, the terms and conditions of which contained an Arbitration Agreement between the parties in form of Clause 8 thereof which is reproduced herein below:-

“PROVISION FOR SETTLEMENT OF DISPUTES:-

In case of any dispute between the parties in respect of interpretation of this agreement, such disputes shall be referred to the Vice-

Chairman of the Authority. The Vice-Chairman, DDA shall be empowered to adjudicate and decide the disputes, if any, between the parties and his decision shall be final conclusive and binding on both the parties. The venue of the arbitration shall be in Delhi.”

Disputes having arisen between the parties, the petitioner invoked the Arbitration Agreement vide its notice dated 29.11.2017 and the respondent vide its response dated 24.01.2018 refused to appoint an arbitrator citing the order dated 21.09.2017 passed by this Court in LPA 378/2017 titled **Sunlight Projects Pvt. Ltd. vs DDA & Ors.**, whereby this Court had passed the following order:-

“After some hearing, learned counsel submitted that liberty may be reserved to appellant to question the forfeiture of the entire earnest money deposit (to the tune of Rs. 4,45,75,000/-).

This Court finds no infirmity with the learned Single Judge's findings with respect to the alleged arbitrary action of the DDA in cancelling the allotment. However, the impugned judgment has not dealt with- nor could have properly dealt with- the reasonableness of the forfeiture and possible contentions of the parties. In these circumstances, the appellant is granted liberty to agitate its rights, in accordance with law before a civil court. This Court also clarifies that the time spent in present litigation i.e. writ petition and the subsequent appeal, shall be excluded, from consideration of limitation under Section 14 of the Limitation Act.

The appeal is disposed of in above terms. The pending applications also stand disposed of.”

In my view, this Court had not gone into the question of existence of an Arbitration Agreement between the parties as also the right of the petitioner to invoke the same. The direction of this Court is being misinterpreted by the respondent to contend that the Arbitration Agreement would no longer be in force as the petitioner has been directed to seek its remedy before “Civil Court. “

In view of the above, as the Arbitration Agreement between the parties and due invocation thereof has not been denied by the respondent, I see no impediment in appointing an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the above mentioned allotment.

I appoint **Justice S.P. Garg**, former Judge of this Court, (7, Teen Murti Lane, New Delhi-110001, Mobile: 9910384627) as an Arbitrator for adjudicating the disputes between the parties. The arbitration shall be conducted under the aegis of the Delhi International Arbitration Centre (DIAC) and shall be governed by its rules. The Arbitrator shall give his disclosure statement under Section 12 before proceeding with the reference.

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

NAVIN CHAWLA, J.

JULY 17, 2018

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