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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P.(MISC.)(COMM.) 37/2018 & IA No. 5948/2018**
DROOM TECHNOLOGY PRIVATE LIMITED

..... Decree Holder

Through: Mr.Nittin Bhatia, Adv.

versus

NOOPUR SETHI

..... Judgement Debtor

Through: Mr.Sandeep Kapur, Mr.Rajat Soni &
Mr.Mohit Mahla, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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02.05.2018

This petition under Section 29A(3) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act) has been filed by the petitioner seeking extension of time for making of the Arbitral Award by the Sole Arbitrator.

The learned counsel for the respondent submits that while he has no objection to the grant of extension of time for making of the Arbitral Award, the conduct of the arbitration proceedings by the present Arbitrator would show that he is unable to perform his function. In spite of the respondent repeatedly bringing to his notice that the Statement of Claim filed by the petitioner is defective as it refers to incorrect annexure numbers and to annexures which are not even filed and there are other defects as well, the Arbitrator, in spite of expiry of one year from the date of entering into reference, has been unable to decide on this simple issue.

The counsel for the petitioner admits that there are certain defects in the Statement of Claim filed before the Arbitrator and he shall be moving an application seeking amendment of the same.

As the defects in the Statement of Claim that have been pointed out by the counsel for the respondent are extremely basic in nature, which any Arbitrator performing his function with due diligence should not only have noticed but should have decided almost immediately, in my opinion, the continuation of the arbitration proceedings before the same Arbitrator would result in further delay in adjudication of the disputes between the parties. In my opinion, this is a fit case where a substitute Arbitrator needs to be appointed in exercise of power vested in this Court under Section 29A(6) of the Act.

In view of the above and with the consent of the parties, I extend the period for making of the award by a further period of one year, substituting the present Arbitrator and appointing Mr. O.P. Gupta, District & Sessions Judge (Retd.) (R/o BQ-87, Shalimar Bagh, Delhi-110088, Mobile No.9910384645) as a Sole Arbitrator for adjudicating the disputes that have arisen between the parties. The petitioner shall be entitled to file its amended Statement of Claim before the substitute Arbitrator. The substitute Arbitrator shall start the proceedings *de novo* with the filing of the Statement of Claim. The time for making of the award granted above shall start from the date the Arbitrator enters reference. The substitute Arbitrator shall give his disclosure statement to the parties under Section 12 of the Act before entering upon the reference.

The petition is disposed of with the above directions and with no order as to cost.

NAVIN CHAWLA, J

MAY 02, 2018/rv