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

+ **ARB.P. 228/2018**

**OCUS SKYSCRAPERS REALTY LIMITED** ..... Petitioner

Through: Mr Inder Raj Gill and Mr Bhavesh  
Verma, Advocates.

versus

**MAHALKSHMI INFRAENGINEERS PRIVATE  
LIMITED** ..... Respondent

Through: Mr Akshay Singh and Ms Tasha  
Singh, Advocates.

**CORAM:  
HON'BLE MR. JUSTICE VIBHU BAKHRU**

% **ORDER**  
**23.05.2018**

1. The petitioner has filed the present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that an arbitrator be appointed to adjudicate the disputes that have arisen between the parties in relation to the Work Order dated 19.01.2014 (hereafter 'the Agreement'). The Agreement includes an arbitration clause, which is set out below:-

“52.3 Subject as aforesaid in Clauses 52.1 and 52.2, all disputes and differences whatsoever, which shall at any time hereafter arise between the Parties hereto, touching or concerning this Agreement or its interpretation or effect or as to the rights, duties, obligations and liabilities of the Parties hereto or either of them under of by virtue of this

Agreement or otherwise as to any other matter in any way connected with or arising out of or in relation to the subject matter of this Agreement shall be referred to the Arbitration in accordance with the provisions of Arbitration and conciliation Act, 1996. The Parties agree that the reference of the disputes and differences between the Parties would be made to the Sole Arbitrator, to be appointed jointly.

The jurisdiction and arbitration venue shall be at New Delhi. The procedure for the arbitration shall be determined by the Arbitrator. Costs of such arbitration shall be equally shared between the Owner and the Contract. The Parties undertake to abide and remain bound by the award of the Arbitrator so jurisdiction.”

2. The respondent had invoked the arbitration clause by a letter dated 23.11.2017 and had also sought the consent of the petitioner for appointing an arbitrator which is named in the said letter.
3. There is no dispute as to the existence of the arbitration clause or that the same had been validly invoked. Admittedly, the parties have been unable to concur on appointment of an arbitrator and, therefore, an arbitrator is required to be appointed to adjudicate the disputes in relation to the Agreement falling within the scope of the arbitration clause as set out above.
4. Accordingly, Mr Justice Badar Durrez Ahmed, former Chief Justice of Jammu and Kashmir High Court (Mobile No. 7042205786), is appointed as a sole arbitrator to adjudicate the disputes between the parties. This is subject to the arbitrator making the necessary disclosure under Section 12 of the Act and not being ineligible under Section 12(5) of the Act. The arbitrator shall fix the arbitral fees in consultation with the learned counsel

for the parties and having regard to the provisions of fourth schedule to the Act. The parties are at liberty to approach the Arbitrator for further proceedings.

5. The petition is disposed of.

**VIBHU BAKHRU, J**

**MAY 23, 2018**

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