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

+ ARB.P. 368/2018 & I.A. No.12545/2018

BHARDWAJ BROTHERS

..... Petitioner

Through

Ms.Vasundhra Bhardwaj,
Mr.AkshKrishna and Mr.Vishnu
Unnikrishnan, Advs.

versus

BLS-SUMER (JOINT VENTURE)

..... Respondent

Through

Mr.Arvind Sharma, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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31.10.2018

1. Mr.Ashwani Kumar Bhardwaj is present in person. He affirms his signatures on the affidavits and the Partnership Deed.
2. This petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') seeks appointment of an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Agreement dated 21.01.2010 executed between the parties. The said Agreement contains an Arbitration Agreement in the form of Clause 27 thereof.
3. The disputes having arisen between the parties, the petitioner invoked the Arbitration Agreement vide its notice dated 16.03.2016. The respondent, however, vide its reply dated 31.03.2016 refuted the claim of the petitioner as also claimed that the invocation was not in terms of the Arbitration Agreement. The present petition has therefore been filed by the petitioner

seeking appointment of an Arbitrator.

4. Counsel for the respondent submits that the claim raised by the petitioner would be barred by the law of limitation and even otherwise not maintainable.

5. In my view, these are objections to be raised before the Arbitral Tribunal and not in opposition to the prayer seeking appointment of an Arbitrator. The Arbitrator would have to consider these issues upon receiving the pleadings and the evidence from the parties.

6. As the existence of the Arbitration Agreement and due invocation thereof is not denied by the respondent, I see no impediment in appointing an Arbitrator for adjudicating the disputes between the parties.

7. I appoint **Mr.S.P. Singh Choudhary**, Retired District Judge (A-79, Madhuban, Vikas Marg, New Delhi) as a Sole Arbitrator for adjudicating the disputes between the parties. The Arbitrator shall give disclosure in terms of Section 12 of the Act before proceeding with the reference. The fee of the Arbitrator shall be in accordance with the Fourth Schedule of the Act.

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

Dasti.

NAVIN CHAWLA, J

OCTOBER 31, 2018/Arya