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

+ ARB.P. 364/2018

SURINDER KUMAR Petitioner
Through Mr.M.S. Rehman, Adv.

versus

UNION OF INDIA & ANR. Respondents
Through Mr.Ajay Digpaul, CGSC

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **20.08.2018**

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 an Arbitrator for adjudication of the disputes that have arisen between the parties in relation to the work "Annual rate of contract of maintenance /minor work and various Electrical Installation of various building in OWC/NWC, at 412 Air force Station, New Delhi (L-3)" awarded to the Petitioner vide Letter of Acceptance Ref. dated 07.03.2009 and Agreement No. 06/EE/ACD4/2009-2010/L3. The said Agreement between the parties contains an Arbitration Agreement in form of Clause 25 thereof.

The disputes having arisen between the parties, the petitioner invoked the Arbitration Agreement vide its notice dated 14.10.2016. In response thereto, the respondents vide their letter dated 19.10.2016 called the petitioner for a reconciliation meeting as also sought no objection from the

petitioner to the appointment of one Mr.G.C.Kabi as Arbitrator. The respondents, however, later circulated minutes of the meeting held on 12.01.2017 wherein they rejected the claim of the petitioner as not maintainable based on the report submitted by the Assistant Engineer and Junior Engineer of the respondents. The petitioner, therefore, filed the present petition seeking appointment of an Arbitrator.

The respondents in their reply have asserted that the petitioner have not carried out any work after 21.10.2010 and the last payment was made to the petitioner on 19.11.2010 and therefore, the claim made by the petitioner would be barred by the Law of Limitation. This is disputed by the learned counsel for the petitioner, who while making the reference to the communication dated 06.11.2015, submits that even as per the respondents the Agreement had still not been closed as on 06.11.2015.

Be that as it may, as the existence of the Arbitration Agreement and due invocation has not been denied by the respondents, I do not see any impediment in appointing a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Agreement. It will be for the Arbitrator to decide whether the claims raised by the petitioner are barred by limitation or not. All other contentions of the respondents shall also remain open before the Sole Arbitrator.

With the consent of the parties, the parties are referred to the Delhi International Arbitration Centre (DIAC), which shall appoint a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Agreement. The Arbitration and the fee shall be governed by the DIAC Rules.

Parties shall appear before the DIAC on 11th September, 2018 at 2.00 p.m.

The petition is disposed of in the above terms, with no order as to cost.

Dasti.

NAVIN CHAWLA, J

AUGUST 20, 2018/Arya