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

+ **ARB.P. 373/2018**

UPPAL ENGINEERING CO. PVT LTD

..... Petitioner

Through: **Mr.Ritesh Khatri & Mr.Vijay Kumar,**
Advts.

versus

UNION OF INDIA

..... Respondent

Through: **Mr.Amitara Poddar, Adv.**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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27.09.2018

1. 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 a nominee Arbitrator on behalf of the respondent for constitution of the Arbitral Tribunal to adjudicate the disputes that have arisen between the parties in relation to the work Construction of Building Adjacent to inspection shed, Construction of Boundary Wall, Type IV Quarters 3 Nos.: Type V Quarters I unit, and other allied works in connection with homing 100 electric loco shed at Khanalampura yard at Saharanpur by Chief Engineer (Const) SPL (competent authority) awarded to the petitioner by the respondent vide Letter of Acceptance dated 06.07.2015. The parties have thereafter executed a Contract Agreement bearing no. 184/W/C/UMB dated 28.09.2015.
2. The Contract between the parties contains an Arbitration Agreement in form Clause 63 and 64 thereof.
3. Disputes having arisen between the parties, the petitioner filed an application under Section 9 of the Act. The same was, however, dismissed

on 26.07.2016. The petitioner thereafter filed an appeal, however, the respondent revoked the termination of the Contract.

4. As the disputes could still not be settled, the petitioner invoked the Arbitration Agreement on 31.10.2017. The petitioner thereafter, vide letter dated 06.03.2018 requested the respondent to agree to the appointment of a Sole Arbitrator. Having received no response, the present petition was filed.

5. The respondent has filed its reply to the petition, however, I find that the existence of the Arbitration Agreement and due invocation thereof are not denied by the respondent. The respondent, of course has denied all the claims made by the petitioner in the petition.

6. As the existence of the Arbitration Agreement and due invocation thereof are not denied, I see no impediment in appointing an Arbitral Tribunal for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Contract.

7. The petitioner has already nominated **Brig. V.K. Sawhney**, Retd. Chief Engineer (R/o A-1/20, Freedom Fighter Enclave, Neb Sarai, New Delhi-110068, Mobile: 8766507430, 9810068210) as his nominee Arbitrator. I appoint **Mr.K.N. Agarwal**, Former DG, CPWD (R/o C-33, Chandra Nagar, Ghaziabad-201011, Mobile: 9818310931) as a nominee Arbitrator for the respondent. The two Arbitrators shall jointly appoint the Presiding Arbitrator.

8. The Arbitrators shall give their disclosure in terms of the Section 12 of the Act before proceeding with the reference.

9. The arbitration shall be conducted under the aegis of the Delhi International Arbitration Centre (DIAC). The DIAC rules as to procedure and fee shall apply.

10. The petition is disposed of with the above direction, with no order as to cost.

Dasti.

NAVIN CHAWLA, J

SEPTEMBER 27, 2018/rv