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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 428/2018

DAYARAM TANWER

..... Petitioner

Through: Mr.Rajesh Kumar and Mr.Avinash
Kumar, Advs.

versus

PRADEEP KHATTAR & ANR.

..... Respondents

Through: Mr.Himanshu Bhushan, Adv. for R-1.
Ms.Vijaya Tyagi, Adv.for R-2.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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22.11.2018

1. This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') seeking appointment of a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Memorandum of Understanding (MOU) dated 14.12.2015 executed between the parties. The Arbitration Agreement between the parties is contained in Clause 18 of the said MOU.
2. The disputes having arisen between the parties, the petitioner invoked the Arbitration Agreement vide its notice dated 07.04.2018. Having failed to receive any response from the respondents, the present petition was filed.
3. In spite of opportunity being granted, the respondents have not filed the reply to the petition.
4. Counsel for the respondent no.1 submits that the disputes sought to be raised by the petitioner cannot be adjudicated in absence of the company

namely M/s Techno Easycrrete Pvt. Ltd.

5. In my view, as the existence of the Arbitration Agreement and due invocation thereof are not denied by the respondents, appointment of an Arbitrator cannot be denied to the petitioner. Whether its claim before the Arbitrator would be maintainable or not in absence of the Company, would be a question to be considered by the Arbitrator himself.

6. In view of the above, I appoint **Ms.R.Kiran Nath**, Retired District and Sessions Judge, Delhi (T-107, Aam Bagh, Near Andheria Modh, Mehrauli, Delhi-110030 Ph: 9910384659) as a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned MOU. The Arbitrator shall give disclosure in terms of Section 12 of the Act before proceeding with the reference.

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

Dasti.

NAVIN CHAWLA, J

NOVEMBER 22, 2018/Arya