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

+ ARB.P. 487/2018

JAY ACE TECHNOLOGIES LTD Petitioner
Through: Mr.Karunesh Tandon, Adv.

versus

J.B.WARE HOUSING & TRADING LTD. & ANR. Respondents
Through: Mr.Rajeev Kumar and Mr.Vinayak
Kamra, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **23.10.2018**

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 Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Agreement dated 01.12.2009 executed between the parties.
2. Counsel for the petitioner submits that before filing of the present petition, the petitioner has filed a suit being CS(OS) 2818/2015 before this Court. In the said suit, the respondents have taken an objection *inter-alia* of existence of the Arbitration Agreement between the parties and therefore, the petitioner has filed the present petition.
3. Counsel for the respondents submits that the claims raised by the petitioner on the basis of the Agreement dated 01.12.2009 are not maintainable as the parties had thereafter entered into a Settlement Agreement dated 10.06.2013. He submits that with the execution of the

Settlement Agreement, the Arbitration Agreement ceased to exist between the parties. He submits that he would not be pressing his objection regarding existence of the Arbitration Agreement as a defence to the suit filed by the petitioner, as according to the respondents there is no Arbitration Agreement in existence between the parties.

4. In view of the above submission, counsel for the petitioner seeks leave to withdraw the present petition with liberty to prosecute his suit.
5. The petition is dismissed as withdrawn with liberty as prayed for.

NAVIN CHAWLA, J

OCTOBER 23, 2018/Arya