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

+ **O.M.P. (T) (COMM.) 50/2018**

M.S.BUILDERS

..... Petitioner

Through Ms. Seema Singh, Adv with petitioner
in person.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Jaswinder Singh with Mr. M.K.
Tiwari and Mr. R. Mishra, Advs

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% 13.11.2018

1 Mr. Jaswinder Singh, says that in consonance with the document which is appended at pages 127 and 129 of the documents file, a fresh panel of three names of serving officers will be given to the petitioner wherefrom, the petitioner will have liberty to choose any one person as the Arbitrator.

2 I may indicate that the document appended at page 127 contains the signatures of the petitioner's proprietor whereby in terms of proviso to Section 12(5) of the Arbitration and Conciliation Act, 1996, the petitioner appears to have agreed to appointment of a serving officer as an Arbitrator in the matter.

3 Mr. Jaswinder Singh has brought to the Court the original file which contains the very same document.

4 The said document also bears the signatures of the accepting officer.

5 It is pertinent to note that document appended at page 127 was signed by the petitioner on 14.03.2018 which appears to have been accepted by the respondents on 21.03.2018.

6 To be noted, the document appended at page 129 is a letter dated 14.03.2018 wherein the petitioner has stated as follows:-

“1. Ref your letter No. 8041/GE/DW-08/2015-16/180/E8 dt 08 Mar 2018.

2. In this connection, we render waiver of the Sub Section-5 of Section-12 of the Arbitration and Conciliation Act 1996 in terms of para-8 of the Arbitration & Conciliation (Amendment) Act 2015 subject to Appointment of Arbitrator from Panel of 3 (Three) Arbitrators suggested by the Appointing Authority. We are enclosing three sheets of Appointment of Arbitrator.”

7 Since it was the submission of the counsel for the petitioner that letter dated 14.03.2018 was furnished to the respondents at the same time when document at page 127 was executed, I had put to Mr. Jaswinder Singh as to whether the respondents would be willing to give a fresh panel comprising names of three serving officers to enable the petitioner to choose one of them.

7.1 Mr. Jaswinder Singh on instructions of Mr. Sunil Kumar, J.E. (QS&C), as indicated above has agreed to the same.

8 I may also note that an Arbitrator will now be appointed upon petitioner choosing one of three names in place of Mr. Raj Kumar, S.E. Dir (E/M), the present arbitrator. Pertinently, it is not disputed by learned council for petitioner that Mr. Raj Kumar, S.E. Dir(E/M) was appointed on

18/05/2018 i.e. before the petitioner had approached this Court.

9 Accordingly, the petition is disposed of with direction that the respondents will furnish a fresh panel to the petitioner within a period of two weeks from today, upon which the petitioner will choose one person who would act as the arbitrator in the matter.

10 *Dasti.*

RAJIV SHAKDHER, J

NOVEMBER 13, 2018

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