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

+ ARB.P. 574/2018

ASHOK KUMAR GUPTA & ANR. Petitioners

Through: Mr.Sumit Choudhary and
Ms.Aakanksha Banwal, Advs.

versus

DIVINE INFRACON PVT LTD Respondent

Through: Mr.Soumyajit Pani, Mr.Chittaranjan
Singh and Ms.Rehana Ahmed, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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26.10.2018

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 an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Lease Deed dated 09.05.2012 executed between the parties. The said Lease Deed contains an Arbitration Agreement in form of Clause 23 thereof, which is reproduced hereinbelow:

"In case of any dispute the dispute shall first be attempted to be resolved through discussions failing which the matter then shall be referred to arbitration wherein the provisions of the Arbitration and Conciliation Act, 1996 shall apply."

2. The disputes having arisen between the parties in relation to the said Lease Deed, the petitioner invoked the Arbitration Agreement vide its notice dated 10.11.2017. The respondent, vide its reply dated 22.12.2017 proposed

the names of three Arbitrators. As the same were not agreeable to the petitioner, the present petition was filed.

3. Notice of this petition was issued to the respondent on 08.08.2018. On 14.09.2018 time was granted to the respondent to file its reply. However, the reply has not been filed by the respondent in spite of opportunity being granted. Counsel for the respondent today prays for further time to file the reply. I am not inclined to grant such request.

4. As the Arbitration Agreement and due invocation thereof are not denied by the respondent, I see no impediment in appointing a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Lease Deed.

5. I appoint **Mr. Jagmohan Sabharwal**, Senior Advocate (Chamber No. 314, Lawyers' Chamber Delhi High Court, Delhi, Mobile: 9811038201) as a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Lease Deed.

6. The Arbitrator shall give disclosure under 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.

NAVIN CHAWLA, J

OCTOBER 26, 2018/Arya