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

+ **ARB.P. 507/2016**

JAGDISH P. KHANNA

..... Petitioner

Through: Mr.Jayant K.Mehta, Mr.Anush Raajan,
Advs.

versus

GEETA DHAWAN & ORS.

..... Respondents

Through: Mr.Rajiv Nayyar, Sr. Adv. with
Mr.Satyajit Sarna, Adv. for R-1
Mr.Gopal Sankarnarayanan, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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22.02.2018

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.

Counsels for the respondents submit that the present petition would not be maintainable inasmuch as the petitioner has not formally invoked the arbitration agreement between the parties.

Though the counsel for the petitioner submits that the filing of the petition under Section 9 of the Act, being OMP (I) No.255/2015 itself would act as a notice invoking arbitration agreement, to cut short the controversy, the petitioner is agreeable to issue a formal notice of invocation of the arbitration agreement. He, however, submits that the period spent in the present petition should not be counted for the purposes of limitation.

Counsel for the respondents submit that the petitioner was aware of the objection of the respondents since filing of reply which is 21st September, 2016 and still chose to prosecute the present petition and, therefore, would not be entitled to any benefit for the period spent during the pendency of the present petition.

Having considered the objection raised by the respondents, the present petition is dismissed as withdrawn with liberty to the petitioner to file afresh in accordance with law and if such a petition is filed, the petitioner would be entitled to claim the benefit of Section 14 of the Limitation Act for the period between filing of this petition and 21st September, 2016.

All objections of the respondents shall remain open in case such petition is filed by the petitioner at a later stage.

NAVIN CHAWLA, J

FEBRUARY 22, 2018
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