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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 584/2018

C&C CONSTRUCTIONS LTD.

..... Petitioner

Through: Mr.S.K. Maniktala & Mr.Tushar
Chawla & Mr.Udit Maniktala, Advs.

versus

IRCON INTERNATIONAL LTD.

..... Respondent

Through: Ms.Monisha Handa & Mr.Mohit D.
Ram, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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07.09.2018

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 Presiding Arbitrator for constitution of the Arbitral Tribunal to adjudicate the disputes that have arisen between the parties in relation to the work of construction of Road Over Bridges (ROBs) awarded to the petitioner vide Letter of Award dated 16.05.2012 followed by the Agreement dated 28.06.2012.

This Court vide its order dated 17.05.2018 passed in OMP (T) (COMM) 86/2017 had directed as under:-

“15. In view of the above, the appointment of the nominee Arbitrator for the petitioner, namely Mr.Ashok Khurana – D.G. / CPWD (Retd.), and the Presiding Arbitrator, namely Mr.Rajendra Kumar Goyal, AM (Planning), Rly.Brd.(Retd.), cannot be sustained and their mandate to act as an Arbitrator and the Presiding Arbitrator respectively, is terminated.

16. The counsel for the petitioner submits that Mr.M.K. Aggarwal, Ex-Chief Engineer of PWD B&R Govt. of Haryana, shall be

appointed as a nominee Arbitrator for the petitioner. He shall give his disclosure under Section 12 of the Act before proceeding with the reference.

17. As far as the Presiding Arbitrator is concerned, the two nominee Arbitrators can decide on the same in accordance with Section 11(3) of the Act.”

The petitioner had already nominated its Arbitrator. As recorded in order dated 17.05.2018, the respondent also nominated its Arbitrator, however, the two Arbitrators could not agree on the appointment of the Presiding Arbitrator as recorded in the communication dated 03.07.2018 issued by one of the Arbitrator to both the parties. The same has necessitated the filing of the present petition.

In view of the above, Justice R.C. Chopra, Retired Judge of this Court (N-7, Greater Kailash-I, New Delhi-110048, Mobile: 9818097777) is appointed as a Presiding Arbitrator, thereby constituting the Arbitral Tribunal for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Agreement.

The Presiding Arbitrator shall give his disclosure under Section 12 of the Act before proceeding with the reference. I may only note that the counsels for the parties fairly submitted that the Presiding Arbitrator is conducting another arbitration between the same parties arising out of the same Contract. The same shall not be considered as a bar on his eligibility to conduct the present arbitration proceeding.

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

NAVIN CHAWLA, J

SEPTEMBER 07, 2018/rv