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

+ **ARB.P. 662/2018**

ASHUTOSH BUILDTECH PVT. LTD. Petitioner

Through: Mr. Rohan Thawani with Ms. Pooja
Dhar and Mr. Iqram Govind Singh,
Advs

versus

PAN INDIA INFRAPROJECTS PVT. LTD. Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **06.09.2018**

I.A. No. 11963/2018 (Exemption)

1. Allowed, subject to just exceptions.

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2. This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996.

3. Counsel for the petitioner says that no assertion has been made with regard to how the jurisdiction of this Court is triggered.

4. However, a perusal of the memo of parties would show that the respondent is located in Mumbai and also has its office in Noida, U.P.

5. On being queried, counsel for the petitioner does not dispute that the work in issue was executed in Bhagalpur in Bihar, therefore, neither is respondent located within the territorial jurisdiction of this Court nor any part of the cause of action arises within the jurisdiction of this Court.

6. Counsel for the petitioner, however, seeks to place reliance on clause 28 of the work order to contend that this Court would also have jurisdiction in the matter.

7. For the sake of convenience, the said clause is extracted hereafter:-

“28. Governing Law & Dispute Resolution: The applicable laws of India shall govern the PO with the Supplier/Seller. Any dispute or difference, which may arise out of the PO and cannot be settled in an amicable way between the parties, shall be settled by arbitration in Mumbai/Delhi, as per the provisions of the Arbitration and Conciliation Act, 1996 and the language of the arbitration shall be English.”

8. A careful perusal of the clause would show that all parties have agreed that if they cannot settle their dispute amicably, they would resolve the matter via Arbitration which would be held in Mumbai or Delhi.

9. The parties have not, as is clear, fixed Delhi as the seat of Arbitration.

10. Having regard to what is indicated above, in my opinion, Mumbai would be the closest in terms of jurisdiction, and therefore, the captioned petition would not lie in this Court.

11. The petition is, accordingly, returned.

12. The petitioner will, however, have liberty to file a petition in the appropriate Court, *albeit*, in accordance with law.

RAJIV SHAKDHER, J

SEPTEMBER 06, 2018/c

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