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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ O.M.P.(T) 27/2015
MMTC LTD.

..... Petitioner

Through : Mr.Ashok Chhabra, Advocate.

versus

M/S GLITTER OVERSEAS & ORS.

..... Respondents

Through : Mr.Kishore M Gajaria and
Ms.Namrata Chadha, Advocates.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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18.01.2018

1. This petition under Section 14 & 15 of the Arbitration and Conciliation Act, 1996 (hereinafter referred as 'the Act') has been filed by the petitioner for terminating the mandate of earlier tribunal and appointment of new arbitral tribunal.

2. The facts leading to the filing of this petition are as under:-

a) On 05.01.2009 two arbitrators i.e. Shri D.B. Lall and Sh.K.T.S. Tulsi, senior advocate appointed Justice Mr. C.L. Chaudhary (Retd) as the presiding arbitrator, which commenced the proceedings on 16.01.1999.

b) On 24.09.1999 the claimants filed their statement of claim. And from May 2002 to March 2007 the proceedings were pending for filing of the rejoinder.

c) On 06.03.2007 the claimant filed the affidavit of evidence in April, 2007 and case was adjourned to 18.04.2007. Thereafter, till 30.11.2007 the matter was adjourned on account of non-availability of the one arbitrator or the other. The arbitral proceedings could not be conducted till 22.03.2011 for one reason or the other.

d) Since 22.03.2011 no hearing had taken place and on 29.11.2013 due to ill health of Justice C.L.Chaudhary (Retired) suggestion is for other presiding arbitrator. However, on 05.02.2014, the petitioner received a communication that Justice C L Chaudhary (Retired) has resigned and new chairman has to be nominated and petitioner suggested few names for appointment, but no reply has been received from the respondent; hence the present petition.

The learned counsel for the petitioner submits that in view of resignation of Justice C L Chaudhary (Retired), new presiding officer has to be nominated. It is also submitted that remaining two arbitrators namely Shri D.B. Lall and Sh.K.T.S.Tulsi, senior advocate owing to their present engagement have no time to conduct the arbitral proceedings as such while terminating the mandate of earlier arbitral tribunal, any retired District Judge be appointed as sole arbitrator which would certainly reduce the cost factors.

The learned counsel for the respondent concedes to the appointment of sole arbitrator and termination of the mandate of earlier tribunal.

In the circumstances while terminating the mandate of earlier arbitral tribunal, Mr.Rakesh Kapoor, (Mobile No.9910384621) Retired District Judge is appointed as the sole arbitrator to adjudicate

the dispute between the parties. The arbitration shall take place under the aegis of DIAC and the arbitration fees shall be in terms of the DIAC Rules. Parties to appear before the learned arbitrator on 24.01.2018 at 11.30AM.

In above terms, the petition stands disposed of.

YOGESH KHANNA, J

JANUARY 18, 2018

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