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

+ **ARB.P. 435/2017**

ANTRIKSH REALTECH PRIVATE LTD. Petitioner

Through: Mr. Anupam Srivastava, Mr. Amish
Dabas, Ms. Niharika and Ms. Shreya
S. Dabas, Advs.

versus

**PROTO DEVELOPERS AND TECHNOLOGIES LTD. & ANR.
..... Respondents**

Through: Mr. Ranjit Singh, Adv. for R-1 and
Mr. Ravi Ranjan and Mr. Gaurav
Singh, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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16.03.2018

This application under Section 11 of the Arbitration and Conciliation Act, 1996 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 Collaboration Agreement dated 09.02.2010.

In the Collaboration Agreement respondent nos. 1 and 2 jointly have been referred to as the “owners” and the petitioner has been referred to as the “developer”. The Collaboration Agreement contains an Arbitration Agreement between the parties in form of Clause 38 thereof, which is re-produced herein below:-

“That in the event of any question or dispute arising under, in connection with, incidental to, and/or interpretation or scope of this Indenture of

Collaboration or relating thereto, the same shall be referred to Arbitration of two persons, one to be appointed by the Developers and the other to be appointed by the Owners and the decision of the Arbitrators shall be final and conclusive. The provisions of the Arbitration & Conciliation Act, 1996 and the statutory modifications, amendments and/or re-enactment thereof from time to time shall apply to such arbitration. The parties shall bear and pay their own costs, charges, and expenses of the proceedings before the Arbitrators. In the event, it is revealed that provisions of U.P. Cooperative Societies Act and Rules framed thereunder are applicable to any such disputes, then and in that event provisions of said Act shall apply.”

The petitioner submits that in violation of the arbitration agreement between the parties, respondent nos. 1 and 2 have jointly appointed a Sole Arbitrator for adjudicating the dispute between the parties without the consent or knowledge of the petitioner. He submits that such appointment is *nonest* as it is not in accordance with the procedure of the appointment of the Arbitral Tribunal agreed to between the parties.

The counsel for the respondent no. 1 submits that without admitting the above mentioned claim of the petitioner, the parties may be referred to the Delhi International Arbitration Centre (hereinafter referred to as the ‘DIAC’), who shall appoint a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Collaboration Agreement dated 09.02.2010.

The counsel for the petitioner and respondent no. 2 have no objection to the above proposal.

Accordingly, parties are directed to appear before the DIAC on

06.04.2018 at 3 PM. DIAC shall appoint a Sole Arbitrator for adjudicating the disputes between the parties in relation to the above mentioned Collaboration Agreement. The arbitration and the fee shall be governed by the DIAC Rules.

The petition is allowed in the above terms, with no orders as to costs.

Dasti.

NAVIN CHAWLA, J

MARCH 16, 2018

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