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

+ O.M.P. (T) (COMM.) 114/2018 & IA No. 14675/2018

PRATAP SINDHU

..... Petitioner

Through: Ms.Sonali Malhotra, Mr.Anant
Bhardwaj, Advs.

versus

SUMIT MATHUR

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **03.12.2018**

1. Despite service, none appears for the respondent. The respondent is therefore, proceeded *ex parte*.
2. This petition under Section 14 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner seeking termination of the mandate of Sh. Anil Sharma, who had been appointed as a Sole Arbitrator unilaterally by the respondent vide its undated legal notice.
3. The Arbitration Agreement between the parties is contained in Clause 30 of the Rent Agreement dated 23.04.2015 executed between the parties and is reproduced hereinbelow:

“30. That in case any dispute arises between both the parties regarding the terms and conditions of this Agreement, then the said dispute will be referred to mutually agreed sole arbitrator or settled through court of law under Delhi Jurisdiction whose decision will be final and binding on both parties and all the costs and expenses of the court case will be paid and borne by the tenant.”

5. A reading of the above Clause would clearly show that the Sole Arbitrator had to be appointed mutually by the parties to the Agreement and no party had a unilateral right to appoint an Arbitrator. In spite of the same, the respondent vide its undated legal notice proceeded to refer the disputes to the above named Sole Arbitrator, who in turn entered upon the reference on 17.08.2018. This was in spite of the refusal of the petitioner to accede to his appointment, as communicated by the petitioner to the respondent vide notice dated 10.08.2018.

6. In view of the above, as the Arbitrator has been appointed in complete breach of the Arbitration Agreement between the parties, such appointment is null and void and cannot be sustained. In *Dharma Prathishthanam vs. Madhok Construction (P) Ltd.* (2005) 9 SCC 686, the Supreme Court has held that such unilateral appointments cannot be sustained and all arbitration proceedings conducted pursuant to such unilateral appointment would also be null and void.

7. I may also note that, the said Arbitrator has also vide his order dated 29.10.2018 recused himself from the arbitration proceedings.

8. In view of the above, I terminate the mandate of Mr. Anil Sharma, to act as an Arbitrator.

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

NAVIN CHAWLA, J

DECEMBER 03, 2018

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