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

Date of Decision: 20.7.2018

+ ARB.P. 562/2017

AMBIKA TRADING & CONSTRUCTION
COMPANY

..... Petitioner

Through: None.

versus

ACTUATE BUSINESS CONSULTING PRIVATE
LIMITED & ANR.

..... Respondent

Through: Mr. Piyush Sharma, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J. (ORAL)

ARB.P. No.562/2017

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereafter referred to as '1996 Act').
2. The record shows that notice has not been issued in the petition as yet. It appears that for one reason or the other, the matter could not be taken up. However, what is noticeable is that though there is no representation on behalf of the petitioner, counsel for the respondents, who has been appearing in the matter based on advance notice, says that he has no difficulty if the prayer made in the petition is allowed.
3. The substantive prayer made in the petition is as follows:

“a. appoint an arbitrator and refer the disputes as enumerated in the petition to the arbitrator with a direction to give the award within a definitive time period.”

4. I may also note that the counsel for the respondents informs me that the respondents had filed a suit before the Civil Judge, Nainital, which was disposed of based on an application filed under Section 8 of the 1996 Act by the petitioner vide its order dated 02.11.2016 on the ground that an arbitration agreement obtained between the parties herein.

4.1 To be noted the, arbitration agreement between the parties is incorporated in Clause 40 of the Contract dated 22.8.2008.

5. Accordingly, the petition is disposed of with the following directions:

- (i) Mr. S.K. Tandon, former Additional District Judge, Delhi is appointed as the Arbitrator in the matter.
- (ii) The fee of the learned Arbitrator will be paid as per the provisions of the 1996 Act.
- (iii) Parties and their counsel will appear before the learned Arbitrator on 10.8.2018. If the said date is not convenient to the learned Arbitrator, he would fix another date, which would be proximate to the date fixed by this Court.

6. The Registry is directed to dispatch a copy of this order to the petitioner as well as the learned Arbitrator.

I.A. No.11691/2017

7. This is an application seeking impleadment of, one, Ms. Abha Kathuria Kohli.

8. Learned counsel for the respondents says that Ms. Abha Kathuria was also a party to the suit filed by the respondents before the Civil Judge, Nainital.

9. At this juncture, I do not wish to make any observation on the merits of the application. However, counsel for the respondents is granted leave to move the learned Arbitrator to seek impleadment of Ms. Abha Kathuria. In case such an application is moved, the learned Arbitrator will decide the same in accordance with law.

RAJIV SHAKDHER, J

JULY 20, 2018/pmc

