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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 667/2017

RAJIV ARORA

..... Petitioner

Through : Mr.Rahul Rathore & Mr.Karunesh
Kumar Shukla, Advocates.

versus

BPTP LIMITED & ANR.

..... Respondents

Through : Mr.Manish Sharma and Mr.Ninad
Dogra, Advocates.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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09.01.2018

IA No.293/2018

For the reasons explained in the application, the delay of 15 days in filing the reply stands condoned. The reply of respondent is taken on record.

The application stands disposed of.

ARB.P. 667/2017

1. The petitioner filed this petition under Section 11(5) and (6) the Arbitration and Conciliation Act, 1996 (hereinafter referred as the 'Act') for appointment of the arbitrator.

2. The facts in brief as alleged by petitioner are:-

a) On 21.09.2011 the petitioner entered into an agreement for allotment of commercial/office space in the project of respondent namely Capital City, Sector - 94, NOIDA containing the clause No.55 as arbitration clause;

b) on 29.09.2014 the promised date of possession of the office space lapsed and grace period of six months also stood expired on 21.03.2015 but the respondent failed to deliver the possession as the building remains incomplete and project land is still undeveloped and even false assurances were made the project will be completed by 2018;

c) on 29.04.2015, the respondents without consent of petitioner changed the allotted unit of petitioner and informed that Grand Hyatt, 5 Star Hotel - prominent part of project has been removed;

d) on 14.08.2017 after umpteen emails sent by petitioner between the year 2014-2017, the petitioner terminated the agreement through email at the unilateral alteration of unit and removal of Grand Hyatt and other breaches etc. and asked for refund with interest;

e) on 16.08.2017 the petitioner also sent termination notice through speed post while duplicating the termination email dated 14.08.2017;

f) on 23.08.2017 the respondent replied evasively threatening deductions and advised the petitioner to continue with the investment;

g) on 24.08.2017 the petitioner issued legal notice to respondents and invoked clause No.55 containing arbitration agreement and said notice was served upon both respondents on 29.08.2017 and 30.08.2017 per online delivery reports;

h) upon expiry of 30 days i.e., on 27.09.2017 both the respondents failed to respond; hence the present petition.

3. In terms of clause No.55 of the agreement entered into between the parties, any dispute pertaining to the contract is to be referred to

the sole arbitrator. On 24.08.2017 notice of invoking the arbitration clause was sent to both the respondents, but they did not come forward to appoint an arbitrator; hence this petition.

4. I have heard the learned counsel for the respondents.

5. In view of the aforesaid circumstances, the parties to appear before the learned co-ordinator of the Delhi International Arbitration Centre (DIAC), Delhi High Court for appointment of arbitrator on 15.01.2018 at 11:30 AM. The arbitration shall take place under the aegis of DIAC rules. The fee of the arbitrator shall be in terms of rules of DIAC.

6. In above terms, the petition stands disposed of.

YOGESH KHANNA, J

JANUARY 09, 2018

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