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

+ **ARB.P. 77/2018**

**MITSUBISHI ELEVATOR INDIA PRIVATE
LIMITED**

..... Petitioner

Through Mr Abhinav Bhalla, Advocate.

versus

**THREE C UNIVERSAL DEVELOPERS PVT.
LTD.**

..... Respondent

Through Mr Mahjabeen Tanweer, Mr Shakti
Verma, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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02.05.2018

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that an arbitral tribunal be appointed to adjudicate the disputes that have arisen between the parties in relation to the work order dated 12.10.2011. The said work order includes an arbitration clause which is set out below:-

"2. Arbitration

In the event of any dispute between us, we shall nominate 1 (one) arbitrator (each with an umpire) whose nomination shall be mutually acceptable to both of us.

The arbitration proceedings shall be governed by the provisions of the Indian Arbitration and Conciliation Act 1996 or any re-enactments or statutory modifications thereof for the time being in force. The venue of the arbitration shall be at

New Delhi- India only.”

2. The petitioner has invoked the arbitration clause by a letter dated 08.09.2017 and appointed Sh S.K. Chachra, Advocate as a nominee arbitrator.

3. The learned counsel appearing for the respondent does not dispute the existence of the arbitration clause. She, however, states that the notice dated 08.09.2017 is not received by the respondent. She further states that in terms of the arbitration clause, the respondent shall nominate its arbitrator within a period of two weeks from today. The learned counsel appearing for the parties state that the two arbitrators appointed shall concur on appointment of a third arbitrator.

4. The respondent is bound down to the said statement of the learned counsel for the respondent that the respondent will nominate an arbitrator within a period of two weeks from today.

5. In view of the above, the petition is disposed of. It is, however, clarified that if the arbitrators appointed by the parties are unable to concur on appointment of an arbitrator, they are at liberty to approach this Court for appointment of a third arbitrator.

VIBHU BAKHRU, J

MAY 02, 2018

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