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

+ **ARB.P. 836/2017**

ARTEFACT PROJECT LTD

..... Petitioner

Through: Mr Joby P. Varghese, Mr Arpit
Bhargava and Ms Hina Bhargava,
Advocates.

versus

AIRPORT AUTHORITY OF INDIA

..... Respondent

Through: Mr Digvijay Rai and Mr Pulkit Tyagi,
Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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03.05.2018

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 arbitrator be appointed to adjudicate the claims relating to Ramp/Bridge over Chackai Canal. The petitioner had made a claim of ₹35,00,057/- against the said item in an earlier arbitration proceedings between the parties. However, the arbitral tribunal had rendered an award dated 23.12.2015 refraining from finally adjudicating the said claim, as the said claim was not referred to the arbitral tribunal.

2. Mr Rai, the learned counsel appearing for the respondent (AAI) has opposed the present petition; he submits that the claim raised by the petitioner is not arbitrable and does not fall within the scope of the arbitration clause as contained in the agreements dated 02.03.2005 and

11.12.2007.

3. Since there is no dispute as to the existence of the arbitration agreement, which is included as a form of an arbitration clause, in the aforesaid agreements and since it is the petitioner's claim that the present disputes fall within the scope of arbitration clause as contained in the agreements, it would be necessary to appoint an arbitrator. The said controversy whether the disputes raised by the petitioner are arbitrable would also have to be decided by an arbitral tribunal.

4. At this stage, the learned counsel appearing for the AAI states that the AAI had not appointed an arbitrator in view of its stand that the disputes raised were not arbitrable; however, it would now proceed to appoint an arbitrator within a period of four weeks from today. The learned counsel appearing for the petitioner states that the petitioner has no objection to the AAI appointing an arbitrator provided the arbitrator is a former judge. Mr Rai is agreeable for the same. In view of the above, the respondent is directed to appoint a former judge as an arbitrator within a period of four weeks from today.

5. The petition is disposed of with the aforesaid direction.

VIBHU BAKHRU, J

MAY 03, 2018
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