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

+ **ARB.P. 834/2017**

ISH ARORA

..... Petitioner

Through: Mr Sunil Goel, Ms Supreet Bimbra
and Mr Mayank Goel, Advocates.

versus

M/S ABW INFRASTRUCTURE LTD. & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.03.2018

1. Although respondent no.1 has been served, none appears for respondent no.1. It appears that respondent no.2 has not been served. It is also seen that respondent no.2 is not a party to the arbitration agreement and, thus, any dispute between the petitioner and respondent no.2 cannot be referred to the arbitration. The representation on behalf of respondent no.2 is, thus, unnecessary.
2. In the circumstances, this Court does not consider it apposite to defer the matter for any representation on behalf of respondent no.1.
3. 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 disputes that have arisen between the parties in relation to a Memorandum of Understanding dated 19.12.2007 executed between the petitioner and respondent no.1 (hereafter 'the Agreement').

4. The Agreement includes an arbitration clause, which is set out below:-

“13. That all disputes or differences arising between the Parties under or in relation to this Memorandum of Understanding, shall be resolved by reference to Arbitration in accordance with the Arbitration and Conciliation Act, 1996. The venue of arbitration shall be New Delhi only.”

5. In view of the disputes that are stated to have arisen between the parties, the petitioner issued a notice dated 30.05.2017 to respondent no.1 invoking the arbitration clause and proposing the name of a former Judge of this Court to act as the Sole Arbitrator. In response to the said notice, respondent no.1 sent an undated letter disputing the contents of the petitioner's notice, but it did not dispute the existence of an arbitration clause. Although, respondent no. 1 objected to the appointment of the Arbitrator as proposed by the petitioner, it agreed that any person empanelled with Delhi International Arbitration Centre (DIAC) be appointed as the Sole Arbitrator.

6. The learned counsel appearing for the petitioner has drawn the attention of this Court to an order dated 01.02.2018 passed by a Coordinate Bench of this Court in ***Munish Arora v. ABW Infrastructure Ltd. and Anr.:*** ***ARB.P. 841/2017***, whereby Mr G.P. Thareja, Additional District Judge (Retired) has been appointed as the Sole Arbitrator to adjudicate the disputes which have arisen between the parties in that case. The learned counsel appearing for the petitioner states that the disputes in the present case are almost identical to the one in that case.

7. In view of the above, this Court appoints Mr G.P. Thareja, Additional District Judge (Retired), Delhi (Phone No. 20906899), as the Sole Arbitrator to adjudicate the disputes that have arisen between the petitioner and respondent no.1. This is subject to the arbitrator making the necessary disclosure under Section 12 of the Act and not being ineligible under Section 12(5) of the Act.
8. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.
9. The parties are directed to appear before the Coordinator, DIAC on 20.03.2018 at 11:00 a.m. for further proceedings.
10. The petition is disposed of in the above terms.

VIBHU BAKHRU, J

MARCH 13, 2018
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