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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 59/2019

SRL LIMITED

..... Petitioner

Through: Ms.Gunjan Sinha Jain, Adv.

versus

DIGNITY BUILDCON PRIVATE LIMITED

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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20.02.2019

1. This petition under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed by the petitioner seeking appointment of an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Memorandum of Understanding dated 13.07.2017 executed between the parties with respect to the lease of premises on 15th and 16th Floor of Tower B2 in 'Prius Vision' situated at Golf Course Extension Road, Sector-62, Gurgaon. The Arbitration Agreement is contained in Clause 17 thereof, which is reproduced hereinunder:

"17. DISPUTE RESOLUTION

Any disputes, differences or issues between the Parties, arising out of or in connection with or in respect of this MOU shall be settled by mutual discussion between the top management of both the Parties. If there is no settlement within 21 days, such disputes, differences and issues shall be resolved through arbitration by a sole arbitrator under Arbitration & Conciliation Act, 1996 and/or amendments/ reenactments thereto. The sole arbitrator shall be appointed by the Parties

with mutual consent. The Arbitration proceedings shall be held at New Delhi, and Courts at New Delhi alone shall have exclusive jurisdiction in respect of all matters arising out of this arbitration agreement or w.r.t the arbitral proceedings and/or the arbitral award by the Arbitral Tribunal.”

2. The parties had thereafter executed supplementary Memorandum of Understanding dated 14.07.2017 and Additional Supplementary Memorandum of Understanding dated 14.08.2017, 14.12.2017, 11.01.2018 and 29.01.2018 with respect to the same property.
3. Disputes having arisen between the parties, as the parties could not arrive at a settlement upon mutual discussions, the petitioner invoked the Arbitration Agreement vide notice dated 30.10.2018. As no response was received from the respondent to the notice invoking arbitration, the present petition was filed.
4. The report of service indicates that the respondent has refused to accept service at the Delhi address given in the memo of parties.
5. Counsel for the petitioner has handed over the tracking report which indicates that the respondent has been duly served with the notice issued by this Court through speed post at its Patiala address.
6. None appears for the respondent in spite of service of notice. Accordingly, the respondent is proceeded *ex parte*.
7. As the existence of the Arbitration Agreement and due invocation thereof remain uncontested, I see no impediment in appointing a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned MOUs

and Supplementary and Additional Supplementary MOU(s). I appoint **Justice N.K. Mody**, Retired Judge of Madhya Pradesh High Court (R/o A-192, Defence Colony, New Delhi, Mobile: 8319397393) as the Sole Arbitrator for adjudicating the disputes that have arisen between the parties. The Arbitrator shall give disclosure under Section 12 of the Act before proceeding with the reference. The Arbitrator shall be entitled to a fee as provided in the Fourth Schedule to the Act.

8. The petition is allowed in the above terms with no order as to costs.

NAVIN CHAWLA, J

FEBRUARY 20, 2019

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