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

+ **ARB.P. 61/2019**

SNG DEVELOPERS LIMITED

..... Petitioner

Through: Mr. Prateek Gupta, Advocate.

versus

SNG VARDHMAN TECHNOBUILD PRIVATE LIMITED

..... Respondent

Through: Mr. Parvez Bashista, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **04.04.2019**

1. The present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (the Act) seeks appointment of an Arbitrator for adjudication of disputes and differences that are stated to have arisen under the Joint Development Agreement dated 8th March 2010.

2. The Arbitration clause reads as under:-

"24. ARBITRATION

In case of any dispute arising or touching upon this Agreement in question, same shall be referred to the arbitration of two arbitrators, one to be appointed by the DEVELOPER and the LAND OWNER each and the two arbitrators so appointed shall appoint a third arbitrator. All the awards made shall be conclusive and binding on the Parties hereto. The venue for arbitration shall be at New Delhi. The arbitration shall be carried out as per the provisions of the Arbitration and Conciliation Act, 1996."

3. Learned counsel for both the parties state that they have no objection in case a sole Arbitrator is appointed instead of the Arbitral Tribunal consisting

of three arbitrators, as provided for in the Arbitration Agreement.

4. Accordingly, by consent of the Parties, Hon'ble Mr. Justice B.D. Ahmed (Retired Judge, Delhi High Court) is appointed as an Arbitrator in the present matter.

5. Learned counsel for the Respondent submits that the present petition is barred by time as the agreement is dated 8th March 2010. However, it is also noted that the parties have subsequently signed more documents in furtherance of the said agreement, and therefore, the question of whether the claims arising out of the agreement are indeed time- barred or not, will have to be decided by the Arbitral Tribunal.

6. Both the parties will be free to raise all the objections as are available under law including the objections relating to the validity of the arbitration agreement, before the Learned Arbitrator.

7. Learned Arbitrator will issue a declaration under Section 12 read with the attendant provisions of the Act before entering upon reference. The Arbitrator shall settle the Arbitral fee having regard to the provisions of the Fourth Schedule appended to the Act.

8. The Petition is allowed in the above terms. No order as to costs. The Registry will despatch a copy of this order to the learned Arbitrator.

SANJEEV NARULA, J.

APRIL 04, 2019/ss