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

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Date of Decision: 20th December, 2019

+ O.M.P.(MISC.)(COMM.) 160/2019

M/S DHARAMVIR & COMPANY

..... Petitioner

Through: Mr. G.L. Verma, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY & ORS..... Respondents

Through: Ms. Aakanksha Kaul and Mr. Prabudh Singh, Advocates for DDA.
Mr. Rakesh Sachdeva, Advocate as Arbitrator.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T

1. The petitioner is seeking extension of time for conclusion of the arbitration proceedings under Section 29A of the Arbitration and Conciliation Act.
2. Vide order dated 11th October, 2017 in Arb.P.500/2017, the disputes between the parties were referred by this Court to *Delhi International Arbitration Centre*. The *Delhi International Arbitration Centre* appointed a sole arbitrator in April, 2018. The term of the arbitrator expired on 23rd April, 2019 and the case is at the stage of recording of the claimant's evidence.
3. The respondents have declined to give the consent for extension of time. However, the respondents has no objection to the appointment of a

substitute arbitrator by this Court under Section 29A(6) of the Arbitration and Conciliation Act.

4. The learned counsel for the respondents urged at the time of the hearing that no arbitration proceedings were conducted by the learned arbitrator in the presence of the parties on 13th August, 2018, 03rd January, 2019 and 14th February, 2019. It is submitted that the parties kept on waiting along with their counsel for the arbitrator on 13th August, 2018 and 14th February, 2019 but the learned arbitrator did not turn up. Learned arbitrator, however, subsequently prepared the order sheets and recorded the appearance of the parties as if the hearing had taken place.

5. During the course of the hearing dated 01st October, 2019, the petitioner admitted that no arbitration proceedings were conducted by the arbitrator in the presence of the parties on 13th August, 2018, 03rd January, 2019 and 14th February, 2019. However, the petitioner took a contrary stand on the subsequent hearing dated 07th November, 2019, that the proceedings took place on 13th August, 2018.

6. The learned arbitrator appeared before this Court on 07th November, 2019 and submitted that he conducted the proceedings on 13th August, 2018 in the presence of both the parties who signed the order sheet. With respect to 03rd January, 2019, it was submitted that it was not a scheduled date and he just fixed the next date of hearing 22nd January, 2019. With respect to 14th February, 2019, it was submitted that he took up the matter at 11.00 A.M. and deferred the case on the request of the respondents to 4.30 P.M. but was later held up in Saket Court and he intimated the Arbitration Centre.

7. Learned counsel for the respondents strongly disputes the submissions of the learned arbitrator. According to the learned counsel for the

respondents, no proceedings were conducted in the presence of the parties on 13th August, 2018 and the order sheet was prepared later and the signature on the order sheet were taken on the next date of hearing. With respect to 14th February, 2019, it was submitted that the parties left after waiting for the arbitrator till 1.00 P.M. and no proceedings took place in the presence of the parties and respondents subsequently received the copy of the order dated 14th February, 2019 recording their presence as if the proceedings have taken place.

8. In the peculiar facts and circumstances of this case, this Court in exercise of power under Section 29A (6), directs the *Delhi International Arbitration Centre* (DIAC) to appoint a substitute arbitrator and term of substitute arbitrator is extended by nine months from today.

9. The petition is disposed of in the above terms.

10. Copy of this judgment be sent to *Delhi International Arbitration Centre* (DIAC).

11. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master.

J.R. MIDHA, J.

DECEMBER 20, 2019

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