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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 678/2018

JITENDER SINGH DHAWAN & ANR. Petitioners

Through: Mr.Yash Anand, Mr.David, Advs.

versus

TODAY HOMES & INFRASTRUCTURE PVT. LTD.

..... Respondent

Through: Mr.Rahul Sharma, Mr.Jitender Ratta,
Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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15.01.2019

1. This petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioners seeking appointment of an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Agreement to Sell dated 09.03.2006. The said Agreement contains an Arbitration Agreement between the parties in form of Clause 58 thereof.

2. The petitioner had earlier raised certain disputes in relation to the said Agreement which were referred to arbitration by the order dated 26.04.2010 passed by this Court in Arbitration Petition No.273/2009. The same resulted in an Arbitral Award dated 26.08.2011. The challenge to the said Award is pending adjudication.

3. In the meantime, the petitioners invoked the Arbitration Agreement by notice dated 15.02.2018 for its subsequent claims.

4. Having failed to receive a response from the respondent, the present petition was filed.
5. Counsel for the respondent submits that the claims of the petitioner would be barred by the law of limitation. He further submits that there are other objections with regard to the maintainability of the claims of the petitioners. However, without prejudice to such submissions, he submits that a Sole Arbitrator be appointed for adjudicating such disputes raised by the petitioner leaving it open to the respondent to raise all these submissions before the Arbitral Tribunal itself.
6. In view of the above, I appoint **Mr.Brajesh Kumar**, Retired ADJ, Delhi (E-35, Saket (F.F.), New Delhi-110017, Mobile-9968139955) as the Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Agreement to Sell.
7. The Arbitrator shall give disclosure under Section 12 of the Act before proceeding with the reference.
8. The arbitration proceedings shall be conducted under the aegis of the Delhi International Arbitration Centre (DIAC) and its rules as to procedure and fees shall be applicable to such proceedings.
9. The petition is allowed in the above terms with no order as to costs.

NAVIN CHAWLA, J

JANUARY 15, 2019
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