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

+ ARB.P. 797/2018

**MR. ATUL SETHI PROPRIETOR OF A.S ENGINEERING
WORKS**

..... Petitioner

Through: Mr.Swetank Shantanu, Mr.Pratap
Shanker, Ms.Shilpi Srivastava and
Ms.Preet Jha, Advs.

versus

ORCHID INFRASTRUCTURE DEVELOPERS PVT. LTD. & ORS.

..... Respondents

Through: Mr.Akshay Ringe, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **16.01.2019**

Learned counsel for the petitioner fairly admits that respondent nos.2 and 3 are not parties to the Arbitration Agreement. They are accordingly deleted from the array of the parties.

This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') seeking appointment of an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Contract dated 25.04.2013 executed between the parties. The said Contract contains an Arbitration Agreement in form of Clause 1.21 thereof.

The disputes having arisen between the parties, the petitioner invoked the Arbitration Agreement vide its notice dated 30.05.2018. Having failed to receive any response from the respondent, the present petition was filed.

Learned counsel for the respondent submits that the claims raised by the petitioner are barred by the law of limitation. He further submits that, even otherwise, the disputes are not maintainable and are liable to be rejected.

In my opinion, the objection that the claims raised by the petitioner are barred by the law of limitation can be considered by the Arbitrator, may be as a preliminary issue. As far as the other objections of the respondent are concerned, the same would also remain open for the respondent to agitate before the Arbitrator, however, these cannot be considered at this stage.

In view of the above and with the consent of the parties, the parties are referred to the Delhi International Arbitration Centre (DIAC) where they shall appear on 31.01.2019 at 2.00 p.m. The DIAC shall appoint an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Contract. The arbitration proceedings and the fee shall be governed by the DIAC rules.

The petition is allowed in the above terms, with no order as to cost.

Dasti.

NAVIN CHAWLA, J

JANUARY 16, 2019/Arya