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

+ ARB.P. 868/2018

M/S SMS WATER GRACE BMW PVT. LTD.

..... Petitioner

Through: Mr.S.C. Mehadia, Mr.Yogesh Tiwan
& Mr.Vikrant Singh Bais, Advs.

versus

GOVT OF NCT OF DELHI DIRECTORATE OF HEALTH
SERVICES

..... Respondent

Through: Mr.Anuj Aggarwal, Additional
Standing Counsel, Govt. of NCT of
Delhi.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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14.03.2019

This petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') 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 Agreement dated 21.07.2006. The said Agreement contains an Arbitration Agreement in form of Clause 34 thereof.

Disputes having arisen between the parties, the petitioner invoked the Arbitration Agreement culminating into an Award dated 11.09.2015. By the said Award, the period of the Agreement was directed to be computed with effect from 21.04.2010.

The petitioner claims that certain additional disputes arose thereafter

for which it invoked the Arbitration Agreement vide notice dated 13.06.2018. The respondent, however, by its reply dated 08.08.2018 refused to accede to the appointment of an Arbitrator.

The learned counsel for the respondent submits that the claims raised by the petitioner are covered by the Arbitral Award dated 11.09.2015 and are even otherwise not maintainable.

In my view, these are issues to be determined by the Arbitrator and cannot be considered by this Court while exercising its jurisdiction under Section 11 of the Act.

As the existence of the Arbitration Agreement and due invocation thereof are not denied by the respondent, I see no impediment in appointing an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Agreement.

I appoint **Ms. Justice Pratibha Rani**, Retd Judge of this Court (R/o Tower No. 23, Flat No. 603, Parsvoath La-Tropicana, Khyber Pass, Delhi, Mobile: 9910384626) as a Sole Arbitrator to adjudicate the disputes that have arisen between the parties.

The Arbitrator shall give a disclosure under Section 12 of the Act before proceeding with the reference.

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

NAVIN CHAWLA, J

MARCH 14, 2019/rv