

Via video conferencing

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **OMP(T)(COMM) 14/2020**

M/S NANU RAM GOYAL AND CO. Petitioner
Through: Dr. Amit George, Adv. with Mr. Sahil
Garg and Mr. Ankit Gupta, Advs.

versus

M/S BPTP LIMITED Respondent
Through: Mr. Vijay Kaundal, Adv.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

ORDER
% **20.08.2020**

1. This is a petition under Section 14 and 15 of the Arbitration and Conciliation Act, 1996 seeking termination of the mandate of sole Arbitrator unilaterally appointed by the respondent. On notice being issued, though reply has been filed by opposing the petition, learned counsel for the respondent is unable to dispute the position that the matter is squarely covered by the decision of the Hon'ble Supreme Court in *Perkins Eastman Architects DPC and Anr. Vs. HSCC India Ltd. (2019) SCC Online SC 1517*.

2. In view of the aforesaid stand taken by the respondent and the admitted position, that the unilateral appointment of Mr. Justice R.B. Misra, (Retd.) is contrary to the ratio of the decision of the Hon'ble Supreme Court in *Perkins Eastman (supra)*, his mandate has to be

terminated and is, accordingly, terminated. It is, however, made clear that the termination of the mandate of the learned Arbitrator will not be seen as a reflection on his impartiality or fairness.

3. In view of the mandate of the aforesaid Arbitrator being terminated, a substitute Arbitrator is required to be appointed. At this stage, learned counsel for the respondent submits that though the respondent has no objection for appointment of an independent Arbitrator by this Court, the respondent is still ready and willing to amicably settle the matter with the petitioner. He, therefore, prays that the appointment of an arbitrator be deferred.

4. On the other hand, learned counsel for the petitioner insists on appointment of an independent arbitrator and submits that the respondent intentions to settle the matter do not appear to be *bona fide*.

5. In view of the aforesaid stand taken by the parties, while terminating the mandate of Mr. Justice R.B. Misra, (Retd.), Mr. Justice Arun Goel, (Mobile No.98163-00203), a former Judge of Himachal Pradesh High Court, is appointed as the sole Arbitrator for adjudication of the disputes between the parties in relation to the work order dated 26.07.2016. It, however, made clear that the learned Arbitrator will enter into reference only after a period of six weeks to enable the parties to explore the possibility of an amicable settlement within the said period.

6. Before commencing arbitration proceedings, the learned Arbitrator will ensure compliance of Section 12 of the Act. The fees

of the learned arbitrator shall be determined in accordance with Schedule-IV of the Act.

7. It is further made clear that this Court has not examined the rival claims of the parties on merits and it will, therefore, be open for them to file claims/counter claims and raise all pleas permissible in law, before the learned Arbitrator, which will be decided in accordance with law.

8. A copy of this order be sent to the learned Arbitrator through electronic means.

9. The petition stands disposed of.

REKHA PALLI, J.

AUGUST 20, 2020

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