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

+ **W.P. (C) 5731/2020 & C.M. No. 20719/2020**

M/S. ALLIED ENGINEERS

..... Petitioner

Through: Mr. Gudipati G. Kashyap, Advocate

versus

HINDUSTAN PREFAB LIMITED & ANR.

.... Respondents

Through: Mr. Ankur Mittal, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

O R D E R

% 28.08.2020

HEARD THROUGH VIDEO CONFERENCING

C.Ms.No.20715-20716/2020(exemption)

Allowed, subject to all just exceptions.

W.P. (C) 5731/2020 & C.M. No. 20719/2020

1. This petition has been filed by the petitioner praying *inter alia* for quashing a communication dated 10.06.2020, addressed by the Project Manager (Civil) of the respondent No.1, in reply to its letter dated 21.04.2020, relating to completion and handing over of the on-going construction of Type II and Type III residential quarters at NDRF, Ludhiana, Punjab. The petitioner also seeks issuance of a writ of mandamus to the respondents to return the performance Bank Guarantee, security deposit and the Bank Guarantee deposited by it. Lastly, the petitioner seeks a declaration that Clause 1 (A) of the General Conditions and Clause 14 of

the Special Conditions of the Contract be declared as voidable.

2. In our opinion, the writ petition as filed, is not maintainable. Several disputed questions of facts have been raised in the petition, which cannot be adjudicated upon in the present proceedings. There is also an arbitration clause governing the parties, but learned counsel for the petitioner contends that the said clause cannot be resorted to till the respondents take certain steps. If the petitioner is seeking a declaration of the nature, as prayed for in prayer (c), then it ought to exercise its civil remedies against the respondents.

3. We decline to entertain the present petition which is disposed of, along with the pending application, with liberty granted to the petitioner to seek its remedies against the respondents as may be available in law.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

AUGUST 28, 2020

pst