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

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Date of decision: 22.01.2020

+ ARB.P. 374/2019

AXALTA COATING SYSTEM PVT. LTD Petitioner

Through: Mr. Himanshu, Advocate for
Mr. Vivek Malik, Advocate

versus

M/S GRAND AUTO CAPITAL & ORS.

..... Respondents

Through

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JYOTI SINGH, J. (ORAL)

1. This is a petition filed under Section 11(6) of the Arbitration & Conciliation Act, 1996 ('Act') seeking appointment of an Arbitrator.
2. Vide order dated 29.11.2019, this Court had permitted the petitioner to carry out substituted service on the respondents. Affidavit of service on the respondents through publication has been filed on 26.12.2019. Publication in respect of respondent No. 1 has been carried out in 'Hindustan Times' (English) and 'Nav Bharat Times' (Hindi) on 28.11.2019 and in respect of respondent No. 2 in 'Times of India' (English) and 'Swadesh' (Hindi) on 26.12.2019.
3. Matter has been called twice. However, there is no appearance on behalf of the respondents. It appears that the respondents are not interested in defending the matter. Accordingly, respondents are proceeded ex-parte.

4. While examining a petition under Section 11(6) of the Act, the Court is only required to examine the existence and the validity of the Arbitration Agreement. This has been clearly held by the Supreme Court in the judgment of *M/s. Mayavati Trading Pvt. Ltd. vs. Pradyut Deb Burman*, (Civil Appeal No.7023/2019, decided on 05.09.2019) and is the mandate of Section 11(6A) of the Act. Since the respondents have chosen not to appear and have been proceeded ex-parte, the existence and validity of the Arbitration Agreement is not in dispute. Accordingly, this Court appoints Mr. Rahul Malhotra, Advocate, as a Sole Arbitrator to adjudicate the disputes between the parties.

5. The address and mobile number of the learned Arbitrator is as under:

Mr. Rahul Malhotra, Advocate
D-314, LGF Defence Colony,
New Delhi.
Mobile: 9899218215

6. The learned Arbitrator shall give disclosure under Section 12 of the Act before entering upon reference.

7. Fee of the Arbitrator shall be fixed as per Fourth Schedule of the Act.

8. The petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

JANUARY 22, 2020

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