$~27 (original)

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

\+ O.M.P. (T) (COMM.) 1/2021

M/S CAPARO FINANCIAL SOLUTIONS LIMITED

..... Petitioner

Through: Mr. Vikas Mishra, Mr. Shubankar Sen Gupta, Mr. Shaleen Srivastava, Mr. Sanchit Gawri, Advs.

versus

M/S JEM AND ASSOCIATES & ORS. ..... Respondents

Through: Mr. Mohit D. Ram and Ms. Monisha Handa, Advs.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

O R D E R (O R A L)

% 15.02.2021

(Video-Conferencing)

1. Consequent to an objection having been raised by the respondent, regarding the appointment of Hon'ble Mr. Justice N.K. Modi, a retired Judge of the High Court of Madhya Pradesh, as the arbitrator to arbitrate on the disputes between the petitioner and the respondent, premised on Section 12(5) of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as "the 1996 Act") read with the Seventh Schedule thereto and the judgment of the Supreme

Signature Not Verified
Digitally Signed
By:SUNIL SINGH NEGI
Signing Date:18.02.2021
10:11:05

Court in ***Perkins Eastman Architects DPC v. HSCC (India) Ltd.***[1], the learned arbitrator recused from the proceedings.

2. This provoked the petitioner to file the present petition before this Court, seeking appointment of a substitute arbitrator.

3. Mr. Ram, learned Counsel for the respondent has, on instructions, submitted that his client has no objection to the appointment of Hon'ble Mr. Justice N. K. Modi as the substitute arbitrator by this Court, in exercise of jurisdiction under Section 12(5) of the 1996 Act, and that the objection voiced before the learned arbitrator was on a matter of principle.

4. Learned Counsel for the parties also agree, *ad idem*, that the learned arbitrator could continue the proceedings from the point where the proceedings stood discontinued at the stage of his recusal.

5. Accordingly, this petition is disposed of by appointing Hon'ble Mr. Justice N.K. Modi (retired), who was earlier conducting the arbitral proceedings between the parties, as the substitute arbitrator under Section 12(5) of the 1996 Act.

6. The learned arbitrator would be entitled to continue the arbitral proceedings from the point where they stood at the time of his recusal. As this is a substitute appointment, under Section 15(2) read with Section 12(5) of the 1996 Act, the mandate of the learned arbitrator would commence afresh from today.

[1] **2019 SCC OnLine SC 1517**

Signature Not Verified
Digitally Signed
By:SUNIL SINGH NEGI
Signing Date:18.02.2021
10:11:05

7. Both sides submit that the learned arbitrator has requested them to appear before him on 15th March, 2021. They may do so accordingly.

8. With the above observations, this petition stands disposed of.

C.HARI SHANKAR, J

FEBRUARY 15, 2021/kr

Signature Not Verified
Digitally Signed
By:SUNIL SINGH NEGI
Signing Date:18.02.2021
10:11:05