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

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Date of decision: 30.07.2021

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ARB.P. 644/2021

ENARCH CONSULTANTS PVT. LTD. Petitioner

Through: Mr. Udit Seth, Advocate

Versus

LALJI SUPERSPECIALITY HOSPITAL AND RESEARCH

.....Respondent

Through: Mr. Rakesh Taneja, Advocate

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (oral)

The hearing has been conducted through video conferencing.

1. The present petition has been preferred by the petitioner under the provisions of Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of Sole Arbitrator to adjudicate the dispute between the parties.

2. The Petitioner- M/s. Enarch Consultants Pvt. Ltd. is said to be engaged in providing Architectural and Engineering Consultancy Services. Petitioner-company claims to have provided consultancy of Architectural, Engineering and Interior Services to respondent- M/s Lalji Super Speciality

Hospital & Research Centre for setting up of a 250 bed Hospital with Guest House facilities and for this purpose, a Contract Agreement was entered between the petitioner and the respondent on 15.01.2016.

3. During execution of the work certain disputes arose between the parties, which could not be settled and so, petitioner-company invoked arbitration vide its letter dated 10.5.2017 in terms of Contract Agreement dated 15.01.2016. However, after rejection of petitioner's invocation of arbitration by the respondent vide its letter dated 22.05.2017, petitioner approached this Court seeking appointment of Arbitrator under Section 11 of the Act. This Court vide order dated 05.02.2018 [in Arbitration Petition No. 629/2017] appointed Justice (Retd.) Anil Kumar as Sole Arbitrator to adjudicate the disputes between petitioner and respondent.

4. Learned counsel for petitioner submits that after demise of sole Arbitrator on 22.04.2021, another Arbitrator has to be appointed in this case.

5. Notice issued.

6. Mr. Rakesh Taneja, Advocate, accepts notice on behalf of respondent and submits that the present petition seeking appointment of Arbitrator has been filed under the provisions of Section 11(6) of the Arbitration and Conciliation Act, 1996, though the relief sought should have been under the

provisions of Sections 14 & 15 of the Act. Learned counsel submits that after demise of Justice (Retd.) Anil Kumar, appointment of another Arbitrator is not disputed. However, since arbitration proceedings had already concluded and only Award was left to be pronounced, therefore, the entire proceedings be not conducted afresh.

7. At this stage, learned counsel for petitioner submits that the aforesaid contention of learned counsel for respondent is not disputed. Learned counsel submits that the present petition be considered as the one under Sections 14 & 15 of the Act for substitution of the Arbitrator.

8. In view of afore-noted contentions of counsel for the parties, the present petition is treated under Sections 14 & 15 of the Act.

9. Keeping in view that the dispute between the parties with regard to Contract Agreement dated 15.01.2016 has to be adjudicated, which contains an arbitration clause and also that after demise of Justice (Retd.) Anil Kumar, the sole Arbitrator, a new Arbitrator has to be appointed, the present petition is allowed.

10. Accordingly, **Justice (Retd.) V.P.Vaish (Mobile: 9910384604)** is appointed Sole Arbitrator to adjudicate the dispute between the parties.

11. The fee of the learned Arbitrator shall be governed by the Fourth

Schedule of the Arbitration and Conciliation Act, 1996.

12. The learned Arbitrator shall ensure compliance of Section 12 of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

13. With aforesaid directions, the present petition is accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

JULY 30, 2021
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