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

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Date of decision: 29.07.2021

+ O.M.P. (T) (COMM.) 69/2021 & I.A. 9188/2021

M/S DELHI CLEAN TECH SERVICES PVT LTD. ... Petitioner

Through: Mr. M. Gireesh Kumar, Advocate

Versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent

Through: Mr. Sandeep Bajaj, Advocate

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

JUDGMENT (oral)

The hearing has been conducted through video conferencing.

1. The present petition has been preferred under the provisions of Section 11(6) r/w Sec. 15(2) r/w Sec. 11(5) & (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of sole Arbitrator in substitution.

2. The petitioner-company, registered under the Companies Act, *inter alia* is specialized in handling and managing waste. Petitioner-company had entered into an Agreement on 03.06.2011 with erstwhile Municipal Corporation of Delhi (MCD), for sweeping the roads having “*Right of way (ROW) 60 feet and 100 feet*’ by deploying mechanical sweepers. According

to petitioner, although the Agreement was with the MCD but the same was later trifurcated and respondent herein i.e. South Delhi Municipal Corporation (SDMC) is the one of the three successors of MCD.

3. Notice issued.

4. Mr. Sandeep Bajaj, Advocate, accepts notice on behalf of respondent-SDMC.

5. The case of petitioner is that some dispute arose with respondent-SDMC with regard to aforesaid Agreement dated 03.06.2011 and petitioner had approached this Court for appointment of an Arbitrator and vide order dated 05.09.2016 [in ARB P. 298/2016], this Court had appointed Justice (Retd.) Anil Kumar as Sole Arbitrator, however, after His demise, a new Arbitrator has to be appointed.

6. In view of pendency of the dispute between the parties with regard to Agreement dated 03.06.2011 and the fact that under Clause-12 thereof the parties shall resolve their dispute through arbitration and the factum of appointment of Justice (Retd.) Anil Kumar as Arbitrator, who has since passed away, this petition is allowed.

7. Accordingly, **Justice D. Murugesan, former Chief Justice of Delhi High Court (Mobile: 8826253366)** is appointed Sole Arbitrator to

adjudicate the dispute between the parties.

8. The fee of the learned Arbitrator shall be governed by the Fourth Schedule of the Arbitration and Conciliation Act, 1996.

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

10. Needless to say, all issues are left open for agitation by the parties and consideration by the learned Arbitrator.

11. At this stage, learned counsel representing both the sides submit that as per schedule, time for making the Award is expiring on 31.07.2021 and since the prayer of petitioner seeking appointment of Arbitrator is allowed, the time for making the award be also extended for further six months.

12. Accordingly, the time for making the award is extended for a further period of six months commencing from 01.08.2021.

13. With aforesaid directions, the present petition and pending application are accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

JULY 29, 2021

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