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

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Date of decision: 22.09.2021

+ **ARB.P. 901/2021**

MCL KSIPL (JV)

.....Petitioner

Through: Mr. Bhupesh Narula, Advocate

Versus

UNION OF INDIA

.....Respondent

Through: Ms. Monica Arora, CGSC with
Mr. Shriram Tiwary, Advocate

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

JUDGMENT (oral)

1. Present petition has been preferred under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator.

2. Petitioner claims to be carrying its business of construction works in India. According to petitioner, respondent invited item rate tenders for the work of "Completion of balance works for construction of dwelling units including allied services for Officers JCOS/OR at Port Blair (Army)" and petitioner's bid was accepted vide its letter dated 28/10/2014 for an amount

of Rs.438,29,06,684/ and time for completion of work was stipulated as 28 months.

3. Petitioner claims that the site for work was handed over to it by the respondent on 22.12.2014 and therefore, the work was to be concluded by 21.04.2017. However, due to various hindrances on the part of respondent, like non-availability of site, decisions and other hindrances and breaches of contract, petitioner could complete the work on 15.05.2018. Further claimed that the final bill was required to be submitted within three months so, petitioner submitted the same on 14.08.2018 and respondent was under obligation to clear it within six months i.e. on or before 13.02.2019. However, respondent cleared the final bill on 06.09.2019 ignoring various legitimate payments towards the petitioner. Also that even the defect liability period of 24 months has been successfully accomplished by the petitioner on 14.05.2020.

4. According to petitioner, when its persistent requests to clear the outstanding amount failed, the petitioner finally invoked the arbitration clause as per condition 60 on page 188 of the Contract Agreement vide its letters dated 31.10.2019; 30.10.2020; 05.03.2021 and 17.06.2021 written to the Engineer in Chief of the respondent requesting to appoint Arbitrator

within 30 days from 17.06.2021. However, since respondent did not appoint any Arbitrator, hence, the present petition has been filed seeking appointment of Arbitrator.

5. Learned Central Government Standing Counsel submits that the claims made in the present petition are disputed, however, she has agreed that an Arbitrator can be appointed to resolve the disputes between the parties.

6. In view of the aforesaid, **Justice (Retd.) B. S. Chauhan, former Judge of Hon'ble Supreme Court, (Mobile: 9717393516)** is appointed sole Arbitrator to adjudicate the disputes between the parties.

7. The fees of the learned Arbitrator shall be according to Fourth Schedule of the Arbitration and Conciliation Act, 1996.

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

9. A copy of this order be sent to the learned Arbitrator for information.

9. The present petition is accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

SEPTEMBER 22, 2021/r