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

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Date of decision: 18.11.2021

+ ARB.P. 1018/2021

PREM LAL SINGH YADAV Petitioner

Through: Mr. J.K. Nayyar, Advocate

Versus

DELHI DEVELOPMENT AUTHORITY & ANR. ... Respondents

Through: Ms. Mrinalini Sen, Standing Counsel
for DDA

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (oral)

1. For adjudication of disputes with respondent, petitioner has filed the present petition under the provisions of Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of sole Arbitrator.

2. Pertinently, the case of the petitioner rests upon Agreement No. 10/EE/WD-13/DDA/11-12 dated 01-06-2011 entered with respondent for work "Maintenance of various colonies under Dwarka Zone Nazul Account II SH : Repair of interlocking paver blocks, providing fixing RCC slab manhole covers and cleaning desilting of drain along 30.00 mtr. wide R/W at Sector 23 Dwarka" for an estimated Cost Rs.6,01,409/- and tendered cost

Rs.3,99,919/-, awarded on 31.05.2011, to be completed within a month.

3. According the petitioner, the aforesaid work was completed on 31.10.2011 within the stipulated period of one month, against which petitioner had raised bills. However, certain disputes arose between the parties and respondent vide its letter dated 17.01.2021 informed the petitioner that the work was not completed in a proper manner. The disputes were adjudicated by an Arbitrator and the Award was published on 29.04.2016, wherein claims of petitioner were dismissed, which was challenged under Section 34 of the Act. The said petition was allowed vide judgment dated 10.12.2020, in pursuance whereof, petitioner served a notice dated 11.01.2021 upon Engineer Member being *persona designate* for appointment of Arbitrator in terms specified in Agreement No. 10/EE/WD-13/2010-11 executed on 01.06.2011, which provides for the settlement of disputes through Arbitration. Since the aforesaid notice remained unanswered by the respondent/DDA, petitioner has approached this Court seeking appointment of an Arbitrator.

4. At the hearing, learned Standing Counsel appearing on behalf of respondent/DDA has shared before this Court a letter dated 11.11.2021 written by Engineer Member, DDA to the petitioner informing appointment

of Sh. Madhuresh Kumar, IRSE (Retd.) G.M. in East Central Railway sole Arbitrator regarding claims of petitioner.

5. At this stage, this Court has observed that appointment of Arbitrator by the respondent is in violation of dictum of Hon'ble Supreme Court in *Perkins Eastman Architects DPC &Anr. vs. HSCC (India) Ltd.* 2019 SCC Online SC 1517. However, learned counsel for petitioner submits that there is no objection to the appointment of Sh. Madhuresh Kumar as Arbitrator.

6. In view of the above, Sh. Madhuresh Kumar, IRSE (Retd.) Mobile: 7033110000, madhuresh51@gmail.com) is appointed sole Arbitrator to adjudicate the dispute between the parties.

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

8. The petition is accordingly disposed of.

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

(SURESH KUMAR KAIT)
JUDGE

NOVEMBER 18, 2021

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