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

+ ARB.P. 526/2019, I.A.2414/2024

SH RAMKISHAN SINGH

..... Petitioner

Through: Mr. Kartik Nayar, Mr. Krish Kalra
and Mr. Rishab Kumar, Advocates

versus

ROCKS BUILDCON PVT LTD & ANR.

..... Respondents

Through: Mr. Anirudh Sharma, Advocate

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

14.05.2024

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I.A.2413/2024 (under Section 151 CPC)

1. The present application has been filed on behalf of the petitioner for reviving the petition under Section 11(6) seeking appointment of the Sole Arbitrator.
2. It is submitted that the SLP No.8857/2024 has been dismissed by the Apex Court vide Order dated 03.05.2024 and the present petition may be revived and the Arbitrator may be appointed.
3. Learned counsel appearing on behalf of the respondent has no objection is the application is allowed.
4. In view of the submissions made, ARB.P. 526/2019 is hereby revived.
5. The application is accordingly disposed of.

ARB.P. 526/2019

6. The present Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (*hereinafter referred to as the "Act,*



1996”) for appointment of the sole Arbitrator for the adjudication of the disputes between the parties.

7. Briefly stated, an Agreement dated 04.09.2011 was entered between the petitioner Shri Ram Kishan Singh and the respondent Rocks Buildcon Pvt. Ltd. and M/s Bulgin Infratech Pvt. Ltd. for a consideration of 11.55 Crores in lieu of the services already provided to the respondents. Disputes arose and the petitioner sent a Legal Notice dated 29.05.2012 to the respondent for payment of the due amount under the Agreement.

8. Despite Notice of Demand served upon the respondents by the petitioner, the respondents have failed to reply to the same. Therefore, the petitioner left with no option, filed the Petition under Section 11 of the Act, 1996 seeking appointment of a sole Arbitrator. This Court appointed the sole Arbitrator who passed the Award dated 23.04.2015.

9. The said Award dated 23.04.2015 was challenged by the petitioner under Section 34 of the Act, 1996 and this Court *vide* Order dated 09.01.2017 set aside the said Award.

10. Thereafter, the petitioner invoked the arbitration *vide* its Letter dated 23.01.2017, however, the respondents failed to reply to the same. On the contrary, the respondents filed an Appeal along with the application for stay on 14.03.2017 *vide* FAO(OS)(COMM) 68/2017 thereby challenging the Order dated 09.01.2017 *vide* which the Award dated 23.04.2015 was set aside. However, the said Appeal is pending consideration before this Court.

11. In the interim, this Court *vide* Order dated 31.10.2018 referred the parties to mediation for exploring the possibility of settlement, but the respondents did not make any serious offer in the mediation proceedings and consequently, the mediation between the parties could not fructify and the



matter was again listed before the Court.

12. It is submitted that in the aforesaid Appeal, no stay has been granted or the Order dated 09.01.2017 has been set aside by the Court.

13. It is further submitted that the respondents have failed to accept the appointment of the Arbitrator till date, the petitioner left with no option has filed the present petition seeking appointment of Arbitrator.

14. Learned counsel for the respondents submits that he has no objection if the petition is allowed and the Arbitrator is appointed.

15. The Clauses 3 and 5 of the Agreement provide for disputes to be resolved through arbitration.

16. **Submissions heard.**

17. In view of the submissions, without prejudice to the rights and contentions of the parties, the present petition is allowed and Hon'ble Mr. Justice Adarsh Kumar Goel, Former Judge of Supreme Court (Mobile No.9910213040) is hereby appointed as the sole Arbitrator to adjudicate the disputes between the parties.

18. The parties are at liberty to raise their respective objections before the Arbitrator.

19. The fees of the learned Arbitrator would be fixed in accordance with the Fourth Schedule of the Act, 1996 or as consented by the parties.

20. This is subject to the Arbitrator making necessary disclosure as under Section 12(1) of the Act, 1996 and not being ineligible under Section 12(5) of the Act, 1996.

21. The parties are directed to contact the Arbitrator within one week of being communicated a copy of this Order to them by the Registry of this Court.



22. Accordingly, the present petition is disposed of in the above terms.

NEENA BANSAL KRISHNA, J

MAY 14, 2024/PT

Signature Not Verified

Digitally Signed By: AHIL
SHARMA

Signing Date: 21.05.2024
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