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

+ **ARB.P. 23/2024**

PURI CONSTRUCTIONS PVT LTD

..... Petitioner

Through: Mr. M. R. Shamshad, Mr. Arijit
Sarkar & Ms. Nabeela Jamli, Advs.

versus

SHRI SUKHRAJ & ORS.

..... Respondents

Through: Mr. Prathviraj, Advocate for R-1 to 4.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

02.02.2024

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Pursuant to last order dated 18.01.2024, affidavit of service dated 30.01.2024 has been filed on behalf of the petitioner, deposing that they have effected *dasti* service of the notice upon respondents Nos. 5, 6 and 7 namely Shri Balraj, Shri Gajraj and Shri Roop Chand. Copies of the notice, signed in acknowledgment of receipt by the said respondents or their representatives, have been appended with the affidavit.

2. That apart, Mr. M. R. Shamshad, learned counsel appearing for the petitioner submits, that in a cross-petition filed under Section 11 of the Arbitration & Conciliation Act ('A&C Act') by respondents Nos. 1 to 4 *vide* ARB.P. No. 52/2004, the said respondents had sought appointment of an arbitrator to adjudicate upon the disputes between the parties.



3. The disputes sought to be raised in the present petition are also stated to have emanated from the same Collaboration/Development Agreement dated 24.10.2006 and Supplementary Agreement dated 26.10.2010, that are subject matter of the other arbitration petition bearing ARB. P. No. 52/2024.
4. *Vide* order dated 15.01.2024, the said arbitration petition has been disposed-of, appointing Hon'ble Mr. Justice S. Ravindra Bhat, former Judge of the Supreme Court as the learned Sole Arbitrator in the matter.
5. Mr. Prathviraj, learned counsel for respondents Nos. 1-4 points-out that in the aforesaid arbitration petition, respondents Nos. 5, 6 and 7 were arrayed as party-respondents only for sake of completeness, since they were parties to the Collaboration Agreement, but no claim was being made against the said respondents who were therefore only *pro-forma* respondents.
6. No one is present on behalf of the respondents Nos. 5, 6 and 7 when the matter is called-out. No reply has been filed by any of the said respondents either.
7. In the circumstances, this court is satisfied that respondents Nos. 5, 6 and 7 in the present proceedings have been duly served; but have chosen not to be represented. Accordingly, respondents Nos. 5, 6 and 7 are set *ex-parte*.
8. Since *vide* order dated 15.01.2024 made in ARB.P. No. 52/2004 titled ***Shri Sukhraj & Ors. vs. Puri Construction Private Limited & Ors.*** the disputes between the parties have already been referred to arbitration and a learned Sole Arbitrator has been appointed in the



matter, the present petition is also disposed of appointing **Hon'ble Mr. Justice S. Ravindra Bhat, former Judge of the Supreme Court (Cellphone No. +91 9818000160)** as the learned Sole Arbitrator in the present matter as well.

9. It is further directed that the present reference would be part of the reference made by way of the earlier arbitration petition bearing ARB.P. No. 52/2004.
10. The learned Arbitrator shall be entitled to fee in accordance with Fourth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Arbitrator.
11. Parties shall share the arbitrator's fee and arbitral costs, equally.
12. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on merits, in accordance with law.
13. Parties are directed to approach the learned Arbitrator appointed within 10 days.
14. A copy of this order be communicated by the Registry to the learned Sole Arbitrator.
15. The petition stands disposed-of in the above terms.
16. Other pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 2, 2024/MR