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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 46/2024**
M/S RAKESH KUMAR ENGINEERS AND CONTRACTOR
THROUGH SHRI RAKESH KUMAR PRUTHIPetitioner

Through: Mr. Sanjay Bansal, Adv.

versus

INDIAN RED CROSS SOCIETYRespondent
Through: Ms. Ira Gupta, Mr. Sumit Kumar,
Advs.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
20.08.2024

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1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties.
2. The respondent issued a letter of intent to the petitioner for execution of renovation civil, interior, plumbing and electrical works and airconditioning works at Red Cross Hospital, Seema Puri, New Delhi-95 as per NIT.
3. The NIT contains the arbitration clause being Clause 28 which reads as under:-

“28. ARBITRATION:

A. In the event of any dispute or difference of any kind whatsoever, arising out of the contract or the execution of the works, the same shall be referred to a single arbitrator agreeable



and appointed by both the employee and the contractor. In case of disagreement as to the appointment of a single arbitrator each party shall appoint one arbitrator. The arbitrators shall appoint an umpire in the event of a deadlock. The decision of the arbitrators or in the event of their not reaching an agreement, the decision of the umpire shall be final. The arbitration proceedings shall be governed by the provision of law of the India Arbitration & Reconciliation Act, 1996, or any other re-enactment or statutory modifications thereof for the time being enforced, the venue of arbitration shall be Delhi. The work must continue during the arbitration proceedings.”

4. Since there were disputes between the parties, the petitioner invoked arbitration *vide* Legal Notice dated 03.11.2023.
5. Ms. Gupta, learned counsel for the respondent has filed a reply however the same is not on record.
6. She states that she has no objection to the appointment of an arbitrator as long as claims, counter claims and all other legal objections of the respondent are kept open to be decided by the arbitrator.
7. For the said reasons, the petition is allowed. Since the parties are still having disputes between them, the following directions are issued:-
 - i) Ms. Sarika Mehta, Advocate (Mob. No. 9891392080, 9654612475) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
 - ii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the ‘DIAC’). The remuneration of the learned Arbitrator shall be in terms of the Fourth Schedule of the Arbitration & Conciliation Act, 1996.



iii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.

iv) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.

v) The parties shall approach the learned Arbitrator within two weeks from today.

8. The petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

AUGUST 20, 2024/NG