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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ O.M.P.(I) (COMM.) 28/2024, I.A. 1581/2024 & I.A. 1582/2024
EELEVATES INFRA TECH PVT. LTD. Petitioner

Through: Mr. Rahul Malhotra and Kaustubh
Punj, Advocates.

versus

COSMOS INFRAESTATE PVT. LTD. Respondent

Through: Mr. Saurabh Mishra, Sr. Advocate
with Mr. Abhinav Shrivastava, Mr.
Sanjay Kumar Pandey, Mr.
Shivang Rawat, Mr. Saurabh Singh
and Ms. Amrith Kumari,
Advocates.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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21.02.2024

1. This petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”] in anticipation of arbitral proceedings under an agreement dated 01.06.2023, entitled “*Joint Development Agreement*” [“the Agreement”].
2. By order dated 22.01.2024, notice was issued to the respondent. The respondent has since entered appearance.
3. By a further order dated 25.01.2024, an *ad-interim* order was granted directing the parties to maintain *status quo* with regard to title and possession of the subject property [GH-01C, Sector-16, Greater Noida].



4. Learned counsel for the parties, on instructions, submit that they are making an attempt to settle their disputes. However, it is accepted that in the event the disputes are not settled, they would have to be adjudicated by arbitration in terms of the Agreement.

5. Learned counsel for the parties state that an arbitrator may be appointed and the present petition may be treated as an application under Section 17 of the Act, with the request to the learned arbitrator not to enter into the reference for a period of four weeks to enable them to enter into the settlement.

6. With the consent of learned counsel for the parties, the petition is disposed of with the following directions:

- a. The disputes between the parties under the Agreement dated 01.06.2023 will be adjudicated by arbitration of Hon'ble Mr. Justice Vipin Sanghi, former Chief Justice of the Uttarakhand High Court [Tel No:9871300037].
- b. The arbitration will be held under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi-110503 ["DIAC"], and will be governed by the Rules of DIAC, including as to the remuneration of the learned Arbitrator.
- c. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.
- d. DIAC and the learned Arbitrator are requested to defer the reference for a period of four weeks from today to enable the parties to settle their disputes. The learned Arbitrator may enter into the reference immediately thereafter, upon the request of either party.



- e. If the parties jointly approach Samadhan, Delhi High Court Mediation and Conciliation Centre, Shershah Road, New Delhi-110503, within the aforesaid period of four weeks, for assistance in resolving their disputes, Samadhan may take up the mediation proceedings.
 - f. If arbitration is necessary, the present petition and the reply thereto will be placed before the learned Arbitrator as an application under Section 17 of the Act, and response thereto, to enable the learned Arbitrator to take up the application as expeditiously as possible. If required, either party may place additional documents, in support of their respective contentions, in the Section 17 application, before the learned Arbitrator immediately upon his entering into reference.
 - g. The order dated 25.01.2024 will continue to bind the parties, subject to orders to be passed by the learned Arbitrator in the event arbitration proceedings are necessary.
 - h. It is made clear that the parties may apply for continuation, variation, vacation or modification of the *ad-interim* order passed by this Court before the learned Arbitrator.
 - i. It is made clear that all rights and contentions of the parties are left open for adjudication by the learned Arbitrator.
7. The petition, alongwith the pending applications, stands disposed of in these terms.

PRATEEK JALAN, J

FEBRUARY 21, 2024/SS/