



2024:DHC:7511



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **ARB. P. 252/2023****MR. HARJEET SINGH SENIOR CITIZEN**PetitionerThrough: Mr. Sanjay Mishra and Ms.
Stuti Mishra, Advocates.

versus

**M/S OMAXE LIMITED THROUGH ITS
DIRECTORS SH. ROHTASH GOEL,
SH MOHIT GOEL SH. MANOJ KUMAR DUA
AND SH. VINIT GOYAL**RespondentsThrough: Mr. Satyam Dwivedi, Ms. Puja
Jakhar and Mr. Harshit Prakash, Advocates.**CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR****JUDGMENT (ORAL)**

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24.09.2024

1. By order 21 December 2023, this Court had appointed a Sole Arbitrator to arbitrate on the dispute between the parties. The arbitration clause, governing the contract between the parties reads thus:

“18.2.1 Subject to Section 18.1, above, any Dispute arising from or in connection with this Agreement shall be referred to arbitration and settled in accordance with Indian Arbitration and Conciliation Act, 1996. Unless provided herein, the arbitration tribunal shall consist of 3 (three) arbitrators; each Party shall appoint 1 (one) arbitrator within 30 days of the date of the Dispute Notice and the 2 (two) arbitrators thus appointed shall choose the third arbitrator who will act as the presiding arbitrator of the tribunal. If the 2 (two) appointed arbitrators do not agree on the third arbitrator within 14 (fourteen) days as of the date of appointment of the last appointed arbitrators, then such third

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arbitrator, at the request of both or any one of the appointed arbitrator, shall be appointed by the Hon'ble High Court of Delhi. The Hon'ble High Court of Delhi shall appoint a person as third arbitrator who is not affiliated with any of the Parties. The place of arbitration shall be New Delhi, India and the language of the arbitration shall be English.”

2. The order dated 21 December 2023 was carried in appeal by the respondent to the Supreme Court.

3. By order dated 27 August 2024, the Supreme Court has set aside the order dated 21 December 2023 of the Coordinate Bench, in the following terms:

“Accordingly, we set aside the impugned order dated 21st December, 2023 and direct that appointment of Arbitral Tribunal consisting of three Arbitrators shall be made in accordance with clause 18.2 of the relevant agreement. For the purpose of passing an order regarding constitution of Arbitral Tribunal consisting of three Arbitrators, we direct that Arbitration Petition No. 252 of 2023 shall be listed before the roster Bench of the High Court of Delhi at New Delhi on 20th September, 2024 in the morning. The parties shall appear before the roster Bench on that day.”

4. Mr. Satyam Dwivedi, learned counsel for the respondent, submits that the present petition is not maintainable as it has been filed beyond three years from the issuance of notice by the petitioner under Section 21 of the Arbitration and Conciliation Act, 1996¹.

5. Mr. Mishra, learned counsel for the petitioner, *per contra*, submits that after the said notice was issued, the parties had explored mediation, whereafter the petitioner issued a fresh notice to the respondent under Section 21 of the 1996 Act.



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6. In any event, this Court is bound by the directions issued by the Supreme Court. The Supreme Court directions are clear and categorical. This Court is mandated to appoint a Three Member Arbitral Tribunal to arbitrate on the disputes between the parties.

7. Accordingly, the Court appoints Mr. Yogesh Kumar Mathur, Advocate (Tel. 9810253685), Mr. S. S. Rawat, Advocate (Tel. 9971382757) and Mr. Jugal Wadhwa, Advocate (Tel. 9810036560) as the Arbitrator for the petitioner, Arbitrator for the respondent and the Presiding Arbitrator, respectively.

8. It is stated that the amount claimed by the petitioner from the respondent is in the realm of ₹4 Crores, apart from possession of the property.

9. As the order of the learned Single Judge, appointing a Sole Arbitrator, was set aside by the Supreme Court, the arbitral proceedings would have to start afresh.

10. The learned arbitrators are also requested to file the requisite disclosure under Section 12(2) of the 1996 Act, prior to entering on reference.

¹ "the 1996 Act", hereinafter
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11. The petition stands disposed of, in the aforesaid terms.

C. HARI SHANKAR, J.

SEPTEMBER 24, 2024/yg

Click here to check corrigendum, if any