



\$~34

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

+ **ARB.P. 254/2024**

ADITYA BHUTANI

..... Petitioner

Through: Mr. Bharat Sareen, Adv. (VC).

versus

VIJAY BALA KAPUR

..... Respondent

Through: Mr. Samdarshi Sanjay, Mr. Shyamal Kumar, Advs. (VC).

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

27.02.2024

%

I.A. 4496/2024

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

ARB.P. 254/2024

3. By way of the present petition filed under Section 11(5) & (6) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), the petitioner seeks appointment of the Arbitral Tribunal comprising of a Sole Arbitrator to adjudicate the disputes between the parties.
4. Learned counsel for the petitioner submits that the parties had entered into a Collaboration Agreement dated 06.01.2023. As per the Collaboration Agreement petitioner was to redevelop the property bearing No. E-135, Greater Kailash 1, New Delhi 110048, ad-



measuring 248 Sq. yards consisting of a Basement, Stilt Floor, First Floor, Second Floor, Third Floor & Terrace.

5. In pursuance of the settlement, petitioner took the possession of the said property from the respondent.
6. Learned counsel for Petitioner states that after entering into the Collaboration Agreement the petitioner was able to get a suitable buyer for his share in the newly proposed constructed property i.e., First Floor portion right of ownership, possession, and other rights of whatsoever nature in the 22.5% undivided ownership rights in the said plot E-135, Greater Kailash-1, New Delhi, measuring 248 sq. yards and this fact was duly communicated to the respondent. However, thereafter the petitioner noticed some defects in the chain of documents of title and for the execution of GPA. The petitioner requested the respondent for the rectification of those defects and also requested for the execution of GPA for applying the sanctioned plan. However, the respondent has failed to perform his part of the obligation. The reminders dated 27.07.2023 and 19.09.2023 have also been sent to the respondent.
7. It is submitted that the said Collaboration Agreement contains an arbitration clause (Clause-33), which provides that all disputes, with respect to the said agreement, shall be referred to arbitration as per provisions of the A&C Act, and further provides that the place of arbitration would be at Delhi.
8. Disputes having arisen between the parties, the petitioner invoked arbitration vide notice dated 08.01.2024 which was duly responded by the respondent vide communication dated 07.12.2024.
9. Learned counsel appearing for the respondent, on instructions, submits



that without prejudice to the contention to be raised before the learned Sole Arbitrator has no objection to the matter being referred to the Arbitral Tribunal comprising of a Sole Arbitrator.

10. Considering that both the parties have consented to the reference to the arbitral tribunal, the present petition is disposed of with the following directions:

- i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.
- ii) As agreed by both the counsels for the parties, Ms. Usha Mehra, (Mobile No. 9818421144) Former Judge of Delhi High Court is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.
- iii) 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 fee rules of the DIAC Schedule or as the parties may agree.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claims, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- vi) The parties shall approach the learned arbitrator within two weeks from today.



11. The petition is disposed of in the above terms.

FEBRUARY 27, 2024/AR..

DINESH KUMAR SHARMA, J