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

+ **ARB.P. 332/2024**

**DADHEECH INFRASTRUCTURES PVT LTD THROUGH ITS
RESOLUTION PROFESSIONAL**

.....Petitioner

Through: Mr. Prakhar Tiwari, Mr. Shikhar
Tiwari, Advs.

versus

**DIRECTOR GENERAL MARRIED ACCOMMODATION
PROJECT**

.....Respondent

Through: Mr. Shashank Garg, CGSC with Ms.
Aradhya Chaturvedi, Advs.

**CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH
ORDER
23.08.2024**

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1. This is a petition filed under Section 11(4) & (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of a Sole Arbitrator for adjudication of disputes arising out of the Contract dated 11.10.2013.
2. The facts of the case are that the respondent invited tenders for construction of residential accommodation for Army at Kapurthala for a contract value of Rs. 71,61,66,729/-.
3. The petitioner participated in the said bid and was awarded the contract vide Letter of Award dated 19.10.2013.
4. The General Conditions of Contract of the Contract dated 11.10.2013 contains an arbitration clause being clause 60 which reads as under:-



60. Arbitration.

All disputes, between the parties to the contract (other than those for which the decision of the DG MAP or any other person is by the contract expressed to be final and binding) shall, after written notice by either party to the Contract to the other of them, be referred to the sole arbitration of serving officer having degree in Engineering or equivalent or having passed Final/Direct Final Examination of Sub Division II of Institution of Surveyors (India) recognised by the Govt of India to be appointed by the Engineer-in-Chief, Army Headquarters, New Delhi or in his absence, the officer officiating as Engineer-in-Chief or Director General of Works if specifically delegated in writing by Engineer-in-Chief, Army Headquarters, New Delhi whose decision shall be final, conclusive and binding. The Arbitration shall be governed by Arbitration and Conciliation Act, 1996.

Unless both parties agree in writing, such reference shall not take place until after the completion or alleged completion of the Works or termination or determination of the Contract under Condition Nos. 49 and 50 hereof.

Provided that in the event of abandonment of the works or cancellation of the Contract under Condition Nos. 45, 47 or 48 hereof, such reference shall not take place until alternative arrangements have been finalised by the Government to get the works completed by or through any other Contractor or Contractors or Agency or Agencies.

Provided always that commencement or continuance of any arbitration proceeding hereunder or otherwise shall not in any manner militate against the Government's right of recovery from the contractor as provided in condition 57 hereof.

If the Arbitrator so appointed resigns his appointment or vacates his office or is unable or unwilling to act due to any reason whatsoever, the authority appointing him may appoint a new Arbitrator to act in his place.

The Arbitrator shall be deemed to have entered on the reference on the date he issues notice to both the parties, asking them to submit to him their statement of case and pleading in defense.

The Arbitrator may proceed with the arbitration, ex parte, if either party, in spite of a notice from the Arbitrator, fails to take part in the proceedings.

The Arbitrator shall give his reasoned award in writing on all matters referred to him and shall indicate his findings, alongwith sums awarded, separately on each individual item of dispute.

The venue of arbitration shall be such place or places as may be fixed by the Arbitrator in his discretion.

The award of the Arbitrator shall be final and binding on both the parties to the Contract.

5. Since there were disputes between the parties, the petitioner invoked arbitration *vide* legal notice dated 03.11.2023.
6. Mr. Garg, learned CGSC states that he has no objection to the petition being allowed.
7. For the said reasons, the petition is allowed and the following directions are issued:-



- i) Ms. Justice Mukta Gupta (Retd.) (Mob. No. 9650788600) 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 parties are at liberty to withdraw any / some claims pending before the Resolution Professional and agitate the same before the learned Arbitrator.
9. The petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

AUGUST 23, 2024 / (MS) *Click here to check corrigendum, if any*