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

+ **ARB. A. (COMM.) 14/2022, I.A. 5235/2022**

M/S. SACHIN ENTERPRISES THROUGH PROPRIETOR MR. JITENDRA KUMAR SINGH Petitioner

Through: Mr. Sanjay Bansal, Mr. Rajesh R Dubey, Mr. Shobhit Garg, Ms. Swati Bansal, Ms. Vaishali Gupta, Ms. Ayushi Bansal, Advs. (VC).

versus

M/S. PRAMOD ENTERPRISES THROUGH SOLE PROPRIETOR MR. PRAMOD KUMAR MISHRA & ORS. Respondents

Through: Ms. Kaadambari, Ms. P. Kaushik, Advs. for R-1, 2 & 3.
Mr. Alakh Kumar, Adv. for R-5.

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER
23.02.2024

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1. The present petition has been filed under Section 37 Sub Section 2 (a) (b) of the Arbitration and Conciliation Act against an interim order/award dated 18.02.2022 passed by the learned Arbitrator.
2. Learned counsel for the respondent on instructions states that she has no objection if the interim award dated 18.02.2022 is set aside.
3. It is an admitted position that Mr. Deepak Kumar, Advocate was appointed as a Sole Arbitrator unilaterally by the respondent.
4. Learned counsel for the parties submits that in view of the judgment of the Supreme Court in *Perkins Eastman Architects DPC & Anr. v.*



HSCC (India) Limited 2019 SCC OnLine SC 1517, the unilateral appointment of learned Arbitrator is *non-est* in the eyes of the law. Therefore, learned counsels for both parties submitted that a fresh Arbitrator may be appointed for the adjudication of the dispute.

5. Justice Indermeet Kaur, Former Judge, of Delhi High Court is appointed as the learned Arbitrator under the aegis of the India International Arbitration Centre (IIAC).
6. 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 Justice Indermeet Kaur, Former Judge, of Delhi High Court is nominated as an Arbitrator to adjudicate the disputes between the parties.
 - iii) The arbitration will be held under the aegis of the India International Arbitration Centre, Plot No.6, Institutional Area, Vasant Kunj, New Delhi-110070 (*hereinafter, referred to as the 'IIAC'*). The remuneration of the learned Arbitrator shall be in terms of Schedule IV of the A&C Act 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.

7. In view of the above, the present petition along with the pending application stands disposed of.

DINESH KUMAR SHARMA, J

FEBRUARY 23, 2024/AR