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

+ **ARB.P. 537/2023**

**PM3 ASSOCIATES**

..... Petitioner

Through: **Mr.Pralabh Bhargava, adv. (through  
VC)**

versus

**VLCC HEALTH CARE LTD.**

..... Respondent

Through: **Mr.Anurag Arora and Rit Arora  
Advocates**

**CORAM:**

**HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

**ORDER**

**07.02.2024**

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The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of a Sole Arbitrator to adjudicate the disputes *inter se* the parties. The parties had entered into an Infrastructure and Facility Management Agreement dated 26.06.2018. Clause 13 of the Agreement is Disputes Resolution & Arbitration, which provides that if the parties fail to resolve any dispute or difference by mutual consultation, the sole arbitrator shall be appointed by the respondent. However, in view of the *Perkins Eastman Architects DPC & Anr. vs. HSCC (India) Ltd.* 2019 OnLine SC 1517, learned counsel for the petitioner submits that the sole arbitrator may be appointed by this court. It is submitted that the venue of arbitration shall be at Delhi and the claim amount is around Rs.2 crores.

Learned counsel for the respondent submits that that parties have failed to resolve the matter amicably and the matter may be referred for



arbitration.

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 R.K.Gauba, Former Judge of this Court (Mobile No.9650411919) is appointed as an Arbitrator to adjudicate the disputes between the parties.
- iii) 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 claim, 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.

The petition is disposed of in the above terms.

**DINESH KUMAR SHARMA, J**

**FEBRUARY 7, 2024/rb \***