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

+ **ARB.P. 519/2024**

RCC DEVELOPERS

..... Petitioner

Through: Mr. Namit Suri and Mr. Rameezuddin
Raja, Advocates

versus

NORTHERN RAILWAYS

..... Respondent

Through: Mr. Vineet Dhanda, CGSC with Mr.
Abhishrut Singh and Mr. Abhijit,
Advocates

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

21.05.2024

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1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of the Sole Arbitrator to adjudicate upon the disputes which have arisen between the parties.

2. **It is submitted that** earlier certain disputes had arisen between the parties due to which the petitioner was constrained to invoke arbitration by way of a Demand Notice dated 22.07.2021 under Clause 64 of the GCC. The respondent in their Reply to the Demand Notice dated 26.08.2021 did not dispute the existence of the Arbitration Clause.

3. Thereafter, the petitioner then filed the ARB.P. bearing No. 1213/2021 under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of the Sole Arbitrator. This Court thereby appointed



Mr. Justice A.K. Pathak (Retd.) as the Sole Arbitrator.

4. The Petitioner filed its detailed statement of claims under separate heads before the learned Sole Arbitrator on 08.08.2022 claiming the amounts which fell due towards the Petitioner as on 31.05.2022 in Arbitration proceedings bearing no. DIAC/3733/02-22, titled as “M/s RCC Developers Ltd. General Construction CO. (Joint Venture) Vs. The General Manager Northern Railway”. It is also submitted that the evidence of both the parties have been concluded in the said Arbitration.

5. It is submitted that, even after the commencement of the Arbitration the respondent desired to avail the services of the petitioner to carry on and conclude the work as per the contract. The Petitioner diligently continued to offer its services in terms of the contract and completed all the work. However, the respondent failed to release the pending payments to the petitioner, take the hand over, record completion and issue completion certificate. The respondent also failed to make the payments towards price variation, payment for prolongation of contract, payment of extra percentage of GST, record the completion, issue completion certificate, release the Performance Bank Guarantee, etc.

6. In this regard, the petitioner issued a second notice for demand dated 05.03.2024 for Arbitration in terms of Clause 64 of the General Conditions of the Contract raising its claims under various heads. The respondent neither made the payments nor responded to the said Notice for demand.

7. Hence the present petition has been filed seeking the appointment of the sole arbitrator to adjudicate the disputes which have arisen between the parties after 31.05.2022.

8. Reliance has been placed on Gammon India Ltd. & Anr vs NHAI,



OMP (COMM) 392/2020 decided on 23.07.2020.

9. Submissions heard.

10. Mr. A.K. Pathak (Retd.) Judge of Delhi High Court has already been appointed for deciding disputes under the Contract that arose prior to 31.05.2022. Therefore, he is hereby appointed as the Sole Arbitrator for the disputes that have arisen thereafter under the same Contract.

11. The parties are at liberty to raise their respective objections before the Arbitrator.

12. The fees of the learned Arbitrator would be fixed in accordance with the Fourth Schedule of the Act, 1996 or as consented by the parties. 14. This is subject to the Arbitrator making necessary disclosure as under Section 12(1) of the Act, 1996 and not being ineligible under Section 12(5) of the Act, 1996.

13. The arbitration shall be conducted under the aegis of Delhi International Arbitration Centre, Delhi High Court.

14. The parties are directed to contact the Arbitrator within one week of being communicated a copy of this Order to them by the Registry of this Court.

15. Accordingly, the present petition is disposed of in the above terms.

NEENA BANSAL KRISHNA, J

MAY 21, 2024/PT