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

+ **O.M.P. (COMM) 292/2022**

UNION OF INDIA THROUGH EXECUTIVE Petitioner

Through: **Mr. Satyakam, Adv.**

versus

M/S HINDUSTAN CONSTRUCTION COMPANY LTD

..... Respondent

Through: **Mr. Dayan Krishnan, Sr. Adv. with
Mr. Faisal Sherwani, Mr. Aditya
Vikram, Ms. Sanjukta Kaushik, Advs.**

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
26.04.2024

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1. This is a petition seeking setting aside of the Arbitral Award dated 10.12.2021, wherein the claims of the respondent were allowed to the tune of ₹ 54 crores.
2. It is stated by Mr. Satyakam, learned counsel for the petitioner that the award is hit by the judgment of “*Bharat Broadband Network Ltd. vs. United Telecom Ltd.* [(2019) 5 SCC 755] as well as “*Telecommunication Consultants India Ltd. vs. Shivaa Trading*” [O.M.P.(COMM.) 311/2022] dated 09.04.2024.
3. He states that in the present case, the petitioner who was the party to the contract appointed the arbitrator and hence the same is contrary to the said judgments.



4. Mr. Krishnan, learned senior counsel for the respondent states that in view of the settled position of law, he does not oppose the prayer but requests that a substitute Arbitrator be permitted to take up the matter from the stage of final arguments as all other preceding steps have already been taken.
5. Mr. Satyakam, learned counsel for the petitioner is agreeable to the same.
6. For the said reasons, the application is allowed and disposed of with the following directions:
7. Justice G.S. Sistani (Retd.) (Mobile Number 9871300034) is appointed as a substitute Arbitrator in terms of Section 14 of the Arbitration and Conciliation Act, 1996 for hearing the final arguments and publishing the award.
8. The fee of the Arbitrator is fixed at Rs. 2.5 lakh per hearing, subject to maximum of ten hearings.
9. The arbitrator will be uninfluenced by the earlier proceedings.

JASMEET SINGH, J

APRIL 26, 2024/DM

Click here to check corrigendum, if any