



\$~2

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

+ **ARB.P. 689/2023**

DHARAMVIR AND CO

..... Petitioner

Through: **Mr. J. K. Nayyar, Advocate.**

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: **Mr. Sanjay Vashishtha with Mr.
Vishal Kumar and Mr. Farheen
Intakhab, Advocates.**

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

11.01.2024

%

By way of the present petition under section 11 of the Arbitration & Conciliation Act 1996 ('A&C Act'), the petitioner seeks appointment of an arbitrator to adjudicate upon the disputes that are stated to have arisen with the respondent from Agreement dated 26.09.2011.

2. Notice on this petition was issued on 17.07.2023.
3. Mr. J.K. Nayyar, learned counsel appearing for the petitioner has drawn the attention of this court to clauses 25 and 50 of the agreement, which comprise the arbitration provisions; and contemplate reference



of disputes between the parties to arbitration in accordance with the A&C Act.

4. As per the record, the petitioner invoked arbitration *vide* Notice dated 13/14.02.2023; to which no reply was sent by the respondents.
5. At the outset, Mr. Sanjay Vashishtha, learned counsel appearing for the respondent prays that costs imposed upon the Delhi Development Authority ('DDA') *vide* last order dated 20.12.2023 be waived in view of the fact that the respondent had filed the requisite agreement containing the arbitration clause on 16.12.2023, though the same had not come on record. In support of this plea, Mr. Vashishtha has handed-up a copy of the filing-log of the matter, which substantiates the submission. Counsel further submits that their omission to appear on that date was a result of the fact that counsel had inadvertently omitted to record the date in his diary. Counsel also prays that since costs will be paid from the State Exchequer, the court may consider that aspect sympathetically.
6. In any case, counsel submits that it was for the petitioner to file the agreement comprising the arbitration clause, that he was seeking to invoke in the matter.
7. On another note, Mr. Vashishtha submits that they are ready and willing to be referred to arbitration under the aegis of the Delhi International Arbitration Centre, New Delhi ('DIAC').
8. Mr. J. K. Nayyar, learned counsel appearing for the petitioner is agreeable to the aforesaid course of action.
9. In the circumstances, costs of Rs. 25,000/- imposed upon the respondent *vide* last order dated 20.12.2023 are waived.



10. Upon a conspectus of the averments contained in the petition, the stand taken by the respondent, and the submissions made, this court is satisfied that there is a valid and subsisting arbitration agreement between the parties; that this court has territorial jurisdiction to entertain and decide the present petition; and also that the disputes that are stated to have arisen between the parties as set-out *inter-alia* in invocation notice dated 13/14.02.2023 do not appear *ex-facie* to be non-arbitrable.
11. Accordingly, the present petition is allowed and Ms. Suditi Batra, Advocate (Cellphone No.: +91 9953908812) is appointed as the learned Sole Arbitrator to adjudicate upon the disputes between the parties; with arbitration proceedings to be conducted under the aegis of the DIAC, in accordance with applicable rules.
12. The learned Sole Arbitrator would furnish to the parties requisite disclosures as required under section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.
13. The learned Arbitrator shall then proceed with the arbitral proceedings in accordance with the rules and regulations of DIAC and subject to arbitrator's fee and arbitration costs, as may be applicable.
14. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Sole Arbitrator on merits, in accordance with law.
15. A copy of this order be communicated *forthwith* to the Co-ordinator, DIAC, for information and compliance.



16. A copy of this order be sent by e-mail to the learned Sole Arbitrator, as also to learned counsel for the parties.
17. The petition stands disposed-of in the above terms.
18. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JANUARY 11, 2024
ds