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

+ **ARB.P. 723/2023**

**M/S NAGENDRA AND CO. THROUGH ITS PARTNER MR.
ASHOK KUMAR CHAUHAN** Petitioner

Through: **Mr. Sandeep Singh Nainwal and
Mr. Rajesh Kumar, Advocates.**

versus

**M/S SHAPOORJI PALLONJI AND COMPANY
PVT. LTD.** Respondent

Through: **Mr. Saurabh Bindal, Ms. Akanksha
Batra and Ms. Akshita Salampuria,
Advocates.**

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **29.01.2024**

1. By way of this petition, under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”], the petitioner seeks appointment of an arbitrator to adjudicate the disputes between the parties under an Agreement dated 02.11.2015, read with amendments thereto. The Agreement contains a dispute resolution clause [Clause 13], which provides for reference of disputes to arbitration. The arbitration proceedings were invoked by the petitioner by a legal notice dated 15.04.2023.

2. After some hearing, Mr. Saurabh Bindal, learned counsel for the respondent, has taken instructions and submits that the Court may appoint an independent Arbitrator without prejudice to the rights and contentions

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of the respondent on maintainability of the claims raised by the petitioner or on merits.

3. I am satisfied that the petitioner has made out a *prima-facie* case with regard to existence of an arbitration agreement and invocation thereof.

4. The petition is, therefore, allowed and the disputes between the parties are referred to arbitration under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi [“DIAC”]. DIAC is requested to nominate an arbitrator from its panel. The arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

5. If the respondent has any counter claims, those may also be placed before the learned arbitrator in accordance with law.

6. It is made clear that this Court has not adjudicated the rights and contentions of the parties on merits, which are reserved for adjudication by the learned Arbitrator.

7. The petition stands disposed of.

PRATEEK JALAN, J

JANUARY 29, 2024
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