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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 857/2023

N.S. ASSOCIATES PVT LTD

..... Petitioner

Through: Mr. M. Tarique Siddique with Mr.
Sunil Verma, Mr. Fajallu Rehman and
Mr. Mohd. Bilal, Advocates.

versus

BHUMIKA PROJECTS LIMITED

..... Respondent

Through: Mr. Ankit Sareen, Advocate *via*
video-conferencing.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

12.01.2024

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By way of the present petition under section 11(6) 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 Work Order dated 23.03.2021.

2. Mr. M. Tarique Siddique, learned counsel for the petitioner has drawn the attention of this court to clause 6.7 of the Work Order, which comprises the arbitration agreement between the parties; and contemplates reference of disputes between them to arbitration in accordance with the A&C Act; stipulating that the place of arbitration shall be New Delhi.
3. For completeness, it may be recorded that a territorial jurisdiction provision is also contained in clause 6.7, which also subjects the contract between the parties to the jurisdiction of courts of law at New Delhi.



4. As per the record, the petitioner invoked arbitration *vide* Notice dated 26.07.2022, to which the respondent has sent reply dated 26.08.2022.
5. Notice on this petition was issued on 21.08.2023; consequent to which the respondent has filed reply dated 10.01.2024.
6. 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 26.07.2022 do not appear *ex-facie* to be non-arbitrable.
7. In view of the above, at this stage, learned counsel for the parties jointly request that this court may appoint an arbitrator; and then refer the matter for arbitration under the aegis of the Delhi International Arbitration Centre, New Delhi ('DIAC'), keeping all their respective factual and legal contentions open.
8. Accordingly, the present petition is allowed and Ms. Sangeeta Chandra, Advocate (Cellphone No.: +91 9899820000) 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.
9. 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.



10. The learned Arbitrator may 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.
11. 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 their merits, in accordance with law.
12. A copy of this order be communicated to the Co-ordinator, DIAC, for information and compliance.
13. A copy of this order be sent by e-mail to the learned Arbitrator as also to learned counsel for the parties.
14. The petition stands disposed-of in the above terms.
15. Other pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JANUARY 12, 2024

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