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

+ **ARB.P. 833/2024**

PRATAP SINGH CHAUHAN

.....Petitioner

Through: Mr Vikas Kakkar, Mr Dilip Kumar
Rana, Mr Satish Khatana, Mr
Charanjeet Khatana and Ms Anchal
Kakkar, Advs.

versus

SHRI SHYAM GAKHER & ORS.

.....Respondents

Through: Mr Robin Singh and Mr Sachendra
Kumar, Advs. for R-1.
Mr Mohammad Ahmed, Adv, for R-3
(through VC)

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

21.08.2024

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1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator for adjudication of disputes between the parties.
2. A Collaboration Agreement dated 31.08.2015 was entered into between petitioner, respondent No.2 and deceased brother Sh. Pradeep Chauhan (owners of 1/3rd share each in the property R-539, New Rajinder Nagar, Shankar Road, New Delhi-110060) with respondent No.1 who was the builder.
3. Under the agreement, the respondent no.1 was to construct the entire building and also pay Rs. 1 crore in equal share to all three owners. It was



also agreed that the proposed newly constructed basement and terrace shall be owned by all three owners jointly in equal share. It was further agreed that in lieu of Cost of Constructions upon Receipt of balance payment and subject to completion of entire building as per agreed specifications, drawings to the satisfaction of owners, the Second Floor of Property New proposed Building without terrace will be given to Respondent No.1 the builder herein.

4. The building was not completed and only Rs. 30 lakhs was paid.
5. The third brother Sh. Pradeep Chauhan died on 10.11.2020. Respondent No.3 (wife of Respondent no. 2) is the professing herself to be the legal heir/widow of Late Sh. Pradeep Chauhan. However, respondent No.4 was the wedded wife of Late Sh. Pradeep Chauhan, who is said to have deserted him about 20 years ago.
6. Since there were disputes between the parties, the petitioner invoked arbitration *vide* legal notice dated 19.04.2024 sent to respondent no. 1 in terms of clause 22 of the collaboration agreement dated 31.08.2015.
7. As per the affidavit of service handed over in court today, respondent No.4 has refused service. Mr Mohammad Ahmed, learned counsel appears for respondent No.3. Mr Robin Singh and Mr Sachendra Kumar learned counsel appear for respondent No.1. Respondent No.2 is present in court.
8. For the said reasons, all the respondents are served.
9. Despite service, no reply has been filed.
10. Learned counsel for the respondent No. 1 states that the parties may be referred to Delhi High Court Mediation and Conciliation Centre to explore the possibility of a settlement which is opposed by learned counsel for the petitioner who, on instructions, states that no fruitful purpose would



be served and the proceedings will only be delayed.

11. For the said reasons, the petition is allowed. Since the parties are still having disputes between them, the following directions are issued:-

- i) Mr. Justice R.K. Gauba (Retd.) (Mob. No. 9650411919) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the 'DIAC'). The remuneration of the learned Arbitrator shall be in terms of the Fourth Schedule of the Arbitration & Conciliation Act, 1996.
- iii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- iv) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- v) The parties shall approach the learned Arbitrator within two weeks from today.

JASMEET SINGH, J

AUGUST 21, 2024

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[Click here to check corrigendum, if any](#)