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

+ **O.M.P. (T) (COMM.) 59/2024 & I.A. 31674/2024**

KAILASH ASSOCIATIES

.....Petitioner

Through: Mr. Sourav Roy, Mr. Pranav Bafna,
Mr. Anshu Deshpande, Advocates.

versus

JKG CONSTRUCTIONS PVT LTD

.....Respondent

Through: Mr. Sanjay Jain and Ms. Ankita
Kedia, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

25.11.2024

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1. This Petition under Section 14 & 15 of the Arbitration Act has been filed by the Petitioner seeking substitution of the sole Arbitrator appointed by this Court vide Order dated 01.09.2022, passed by this Court in ARB.P. No.167/2020.

2. Material on record indicates that proceedings commenced before the learned Sole Arbitrator and on 16.03.2024 the learned Sole Arbitrator expressed his inability to proceed further with the arbitration proceedings because the fee of the Arbitration was not forthcoming from the claimant and the Respondent. On 01.05.2024, the learned Sole Arbitrator permitted the parties to approach this Court for appointment of a substitute arbitrator.

3. It is stated by the learned Counsel for the Respondent that Clause XVI(3) of the Service Agreement provides that the appointment of Arbitration shall be through mutual consent. He states that an application for appointment of a substitute arbitrator can be entertained only after the



parties have followed the procedure agreed under the Service Agreement.

4. Since the disputes have arisen between the parties and there is an arbitration clause in the Service Agreement, this Court is inclined to refer the matter to Delhi International Arbitration Centre (DIAC).

5. Accordingly, the Delhi International Arbitration Centre (DIAC) is requested to appoint an Arbitrator to adjudicate upon the disputes between the Parties.

6. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

7. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on reference.

8. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

9. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the contentions of the parties.

10. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

NOVEMBER 25, 2024

Rahul