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

+ **ARB.P. 1021/2023**

MR RADHEYSHYAM Petitioner

Through: **Mr. Udit Maniktala, Mr. Mohit
Sharma, Mr. Kritik, Adv.**

versus

YFC PROJECTS PVT LTD Respondent

Through: **Mr. Vibhor Garg & Sidhant Bhatia
Adv.**

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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07.02.2024

1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate the disputes between the parties.
2. The petitioner relies on Work Order dated 19.02.2018 and another Work Order dated 25.07.2019 both of which contain an arbitration clause.
3. He states that since the petitioner has not been paid amounts due and payable under the two work orders, the petitioner invoked the arbitration by the legal notice dated 18.04.2023 and further since payments were not made, the present petition has been filed.
4. Mr. Garg, learned counsel appearing for the respondent states that the first work order stood novated by another work order dated 23.10.2018 bearing No. WO-CC 127/0086 which did not contain an Arbitration Clause.
5. Mr. Maniktala, learned counsel for the petitioner states that the said work order has been fabricated only for the purpose of this petition and the said work order was never accepted, signed and even communicated to the petitioner.



6. The petitioner has not performed any work pursuant to the work order dated 23.10.2018. While deciding Section 11 petition, this court is only required to broadly see the existence of the arbitration clause, the claims if are within the period of limitation and the jurisdiction of the court.

7. The work orders dated 19.02.2018 and 25.07.2019 are both admitted by the respondent and contain the arbitration clause. The claims as alleged by the petitioner are also within the period of limitation.

8. The question whether there is another work order or not and whether the same constitutes a binding contract between the parties, can only be decided by the arbitrator only after the parties file their claims, counter claims and evidence.

9. The question of arbitrability of the claims is also left open to be decided by the sole arbitrator.

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

i) Mr. Virinder Mehta, (Advocate) (Mob. No.9811151865) 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 on 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.

11. The petition is allowed and disposed of in the aforesaid terms.

JASMEET SINGH, J

FEBRUARY 7, 2024/NG

Click here to check corrigendum, if any