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

+ **ARB.P. 1066/2023**

KONE ELEVATOR INDIA PVT LTD Petitioner

Through: **Mr. Kunal Kher, Adv. (VC)**

versus

JONES LANG LASALLE BUILDING OPERATIONS PVT LTD

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

20.02.2024

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1. By way of the present petition filed under Section 11(6)(B) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), the petitioner seeks appointment of an Arbitral Tribunal comprising of a sole arbitrator, to adjudicate the disputes between the parties.
2. The facts, in brief, are that the respondent has sought the petitioner's maintenance services for elevators based on the terms and conditions agreed between the parties in the agreement dated 19.04.2018, along with its addendum dated 15.05.2019. In pursuance of the services rendered, the petitioner raised the invoices. However, the respondent failed to pay a sum of Rs.25,77,950/- to the petitioner. The cheques issued against this were duly presented but were subsequently dishonoured.



3. Learned counsel for the petitioner states that vide letter dated 07.06.2021, the respondent had assured that the amount would be paid. However, the payment has yet not been paid by repeated demands. It has further been submitted that even the respondent had acknowledged the lapse.
4. Learned counsel for the petitioner submits that the said agreement contains an arbitration clause (section 12) which provides that disputes with respect to the agreement shall be resolved through arbitration as per provisions of A&C Act. It further provides that the place of arbitration would be at New Delhi. It has been further submitted that in pursuance of the arbitration clause, mutual talks have already taken place which were not fructified.
5. Disputes having arisen between the parties, the petitioner invoked arbitration vide notice dated 14.06.2023, issued under Section 21 of the A & C Act. The notice of the petition has duly been received. However, the respondents have failed to appear.
6. Learned counsel for the petitioner submits that the respondent has issued the cheque thereby liability was duly been admitted and acknowledged.
7. The notice in the present case have duly been served upon the respondent, however, the respondents have chosen not to appear.
8. Considering the facts of the case, the matter is referred to the arbitral tribunal, and the present petition is disposed of with the following directions:
 - i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.



- ii) Mr. V.K. Gupta, Former learned Principal District and Sessions Judge, Mobile No. 9910384701 is appointed as Arbitrator.
- iii) 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 fee rules of the DIAC Schedule or as the parties may agree.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- v) 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.
- vi) The parties shall approach the learned arbitrator within two weeks from today.

9. The petition is disposed of in the above terms.

DINESH KUMAR SHARMA, J

FEBRUARY 20, 2024

Pallavi