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

+ O.M.P. (T) (COMM.) 100/2023

M/S AXALTA COATING SYSTEMS INDIA PVT. LTD.

..... Petitioner

Through: Mr Prasanna Mohan, Mr Aditya
Narayan Prasad and Mr Piyush
Sharma, Advs.

versus

M/S PRIME CAR PRIVATE LIMITED AND ORS.

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

16.01.2024

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1. This is a petition under Section 14(1)(a) read with Section 15(2) of the Arbitration & Conciliation Act, 1996 seeking appointment of a substitute Arbitrator for deciding the disputes between the parties and to terminate the mandate of the learned Sole Arbitrator Mr Joydeep Mazumdar, Advocate appointed vide order dated 22.04.2021 in Arbitration Petition No. 240/2021.
2. On the last date of hearing, notice was directed to be served to the respondents. As per the service report, the respondents have been served but there is no appearance on behalf of the respondents.
3. It is stated by Mr Mohan, learned counsel appearing for the petitioner that on 24.05.2023, the Delhi International Arbitration Centre ('DIAC') informed the learned counsel for the petitioner that despite the e-mails dated 21.11.2022 and 09.05.2023 sent to the learned Arbitrator, DIAC has not



received any consent/declaration from the learned Arbitrator. Hence, the present petition seeking termination of the mandate of the Arbitrator and appointment of a new Arbitrator.

4. From the above narration, it is clear that despite repeated requests, the Arbitrator appointed by this Court has not entered reference and has been unable to perform his functions.

5. For the said reasons, the petition needs to be allowed.

- i) The mandate of the learned Sole Arbitrator Mr. Joydeep Mazumdar, Advocate appointed vide order dated 22.04.2021 in Arbitration Petition No. 240/2021 is hereby terminated and Mr. Akshay Nagarajan, Adv (Mob. No. 9940053570) 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. 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 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.



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

JASMEET SINGH, J

JANUARY 16, 2024

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Click here to check corrigendum, if any