



2024:DHC:10024



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 23.12.2024

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ARB.P. 1246/2024

ADA BUILDWELL INFRATECH LLP

.....Petitioner

Through: Mr. Prateek Jain, Adv.

versus

SHAPOORJI PALLONJI AND COMPANY PRIVATE LIMITED

.....Respondent

Through: Mr. Babit Jamwal, Adv.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter '*the A&C Act*') seeks constitution of an arbitral tribunal to adjudicate the disputes between the parties.
2. The disputes between the parties have arisen in context of a work order dated 01.07.2015 (hereinafter '*the work order*'), issued by the respondent, relating to carrying out 'stone works' at a project in the name and style of 'DLF Primus, Sector 82-A, Gurgaon, Haryana'.
3. The petitioner, upon completion of the work in terms of the work order, handed over the project site to the site in-charge in December, 2018. *Vide* letter dated 12.10.2021, the petitioner called upon the respondent to refund Rs. 11,40,927/-, deposited as retention money by the petitioner, in terms of Clause 2 of the work order. Despite several email communications thereafter, the respondent failed to refund the said amount.
4. Disputes between the parties have arisen on account of non-payment of the retention money, for which, a legal notice dated 26.05.2023 was



2024:DHC:10024



issued by the petitioner. However, the respondent failed to settle the outstanding dues.

5. Clause 12 of the work order contains the arbitration agreement and reads as under:-

“12) Resolution of Disputes

All disputes or difference of opinions, on account of interpretation of clauses, technical specifications etc shall be resolved through direct and mutual discussions at site level. In the case of difference of opinion still persisting, then the matter shall be referred to Regional Head, at respective region. However, in case parties fail to reach amicable settlement, the matter shall be referred to arbitration. The Arbitration shall be governed as per Indian Arbitration & Conciliation Act 1996 and shall be held in New Delhi.”

6. Disputes having arisen, a notice invoking arbitration was issued by the petitioner on 01.08.2023; proposing the name of a person who could be appointed as the Sole Arbitrator. However, no response was received thereto. Hence, the present petition has come to be filed.

7. *Vide Order dated 28.10.2024, it was recorded as under:-*

“1. Learned counsel for the respondent submits that the respondent is desirous of settling the matter with the petitioner and accordingly seeks an adjournment.

2. In the circumstances, re-notify on 18.11.2024.

3. It is agreed by the learned counsel for the respondent that if no settlement is arrived at between the parties, the Arbitral Tribunal may be constituted by this Court on the next date of hearing.”

8. During the course of the hearing today, learned counsel for the respondent submits that the parties have been unable to reach a settlement. Further, he does not dispute the existence of the arbitration agreement and accedes to constitution of an arbitral tribunal to adjudicate the disputes between the parties.

9. In the above circumstances, since the existence of the arbitration



2024:DHC:10024



clause is evident from a perusal of the work order, there is no impediment to constituting an arbitral tribunal for adjudicating the disputes between the parties, as mandated in terms of the judgments of the Supreme Court in *SBI General Insurance Co. Ltd. v. Krish Spinning*, 2024 INSC 532 and *In re: Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian Stamp Act, 1899*, 2023 SCC OnLine SC 1666.

10. Accordingly, Mr. Shubham Ranakoti, Advocate (Mob. No.: +91 9667592790) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

11. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties the requisite disclosures as required under Section 12 of the A&C Act.

12. The learned Sole Arbitrator shall be entitled to fee in accordance with IVth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.

13. 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.

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

15. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

DECEMBER 23, 2024/dn