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

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ARB.P. 1255/2024

NAGESH KUMAR GOEL

.....Petitioner

Through: Mr. Prashant Kr. Mittal, Advocate.

versus

M/S MEATTLES PRIVATE LIMITED

.....Respondent

Through: Ms. Anjali Sharma, Mr. Deepak B., Ms. Kanishka Sharma, Mr. S.K. Sagar, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**ORDER**

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**10.09.2024**

1. The petitioner seeks appointment of an arbitrator to adjudicate disputes between the parties under an agreement dated 13.07.2022.
2. The agreement contains an arbitration clause which provides for resolution of disputes by a sole arbitrator "*who shall be architect appointed by the first party for the supervision of the project subject matter of this agreement*".
3. Disputes having arisen between the parties, the petitioner invoked arbitration by a letter dated 15.04.2024, which did not elicit a response. He has, therefore, approached the Court under Section 11 of the Arbitration and Conciliation Act, 1996 ["the Act"].
4. Notice was issued in this petition on 14.08.2024 and time was



granted to learned counsel for the respondent to file a reply. Although no reply has been filed, Ms. Anjali Sharma, learned counsel for the respondent, states that the claims of the petitioner, in fact, been settled, and therefore no arbitrable disputes survive for adjudication.

5. The scope of Court's adjudication under Section 11 of the Act is extremely limited. In the recent judgment of the Supreme Court in *SBI General Insurance Co. Ltd. vs. Krish Spinning* [2024 SCC OnLine SC 1754], it has clearly been held that the only question to be decided by the referral Court is with regard to *prima facie* existence of an arbitration agreement. All questions of maintainability of claims and merits, including questions of arbitrability, limitation, etc., are to be left to the arbitral tribunal for adjudication, consistent with the Doctrine of *Kompetenz-Kompetenz*.

6. As Ms. Sharma does not dispute the existence of an arbitration clause in the agreement, I am of the view that the disputes are liable to be referred to arbitration, leaving open all rights and contentions of the parties to be adjudicated by the learned arbitrator.

7. The arbitration clause provides for arbitration by an architect appointed by the respondent. Ms. Sharma accepts that such unilateral appointment is impermissible in view of the judgments of the Supreme Court in *TRF Limited vs. Energo Engineering Projects Limited* [(2017) 8 SCC 377], *Perkins Eastman Architects DPC & Anr. vs. HSCC (India) Limited* [(2020) 20 SCC 760] and the judgments of this Court in *Ram Kumar vs. Shriram Transport Finance Co. Ltd.* [2022 SCC OnLine Del 4268] and *Govind Singh vs. Satya Group Pvt. Ltd.* [2023 SCC OnLineDel 37]. She, however, submits that adjudication of the petitioner's claims



may require technical expertise, and the appointment of an architect or civil engineer would be appropriate.

8. Having heard learned counsel for the parties, I am of the view that the qualification described in the agreement itself may be borne in mind and an architect or engineer may be appointed for adjudication of the disputes. The disputes are therefore referred to Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi – 110503 [“DIAC”]. DIAC is requested to nominate an architect/engineer from its panel for adjudication of the disputes. The learned arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference

9. The arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned arbitrator.

10. All rights and contentions of the parties, including on maintainability/arbitrability of the claims and on merits, are left open for adjudication by the learned arbitrator.

11. The petition stands disposed of in these terms.

**PRATEEK JALAN, J**

**SEPTEMBER 10, 2024**

*‘Bhupi’/*