



2024:DHC:9096



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 25.11.2024

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O.M.P. (T) (COMM.) 81/2024

PALM CONSTRUCTION AND SUPPLIERS

.....Petitioner

Through: Mr. Rahul Sagar Sahay, Mr. Suvir Sharma, Ms. Anushka Nayyar, Mr. Shiv Azad Sharma, Mr. Prince Singh, Mr. Charcit Talwar and Mr. Syed Meesam, Advs.

versus

KALPATARU PROJECTS INTERNATIONAL LIMITED

.....Respondent

Through: Mr. Arvind Nayar, Sr. Adv. (through v/c), Mr. S. Ravi Shankra, Ms. Yamunah Nachir, Dr. Sunil Mimmal, Mr. Amit Sagar, Mr. Amit Kumar and Ms. Ruhini Dey, Advs.

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

1. The present petition under Section 14(2) of the Arbitration and Conciliation Act, 1996 (hereinafter referred as the 'A&C Act') seeks termination of the mandate of the learned Sole Arbitrator who was appointed by the mutual consent of the parties.
2. The premise on which the present petition has been filed is that there were some omissions / infirmities in the disclosure made by the learned Sole Arbitrator under Section 12(1) of the A&C Act, 1996.
3. During the course of arguments, respective counsel for the parties



2024:DHC:9096



concede that the arbitrator appointed by the parties, by their mutual consent, is an outstanding member of the bar and no aspersions can be cast on the manner in which the proceedings have been conducted.

4. Learned counsel for the petitioner confines himself to raising legal contention/s as regards the consequence of any infirmity/omission in the disclosure under Section 12 of A&C Act, 1996.

5. After some hearing, respective counsel for the parties are in agreement that to obviate the consequences of any procedural aberration on account of the alleged infirmity / shortcoming in the declaration under Section 12 of the A&C Act furnished by learned Sole Arbitrator, the mandate of existing Sole Arbitrator be terminated and an independent sole arbitrator be appointed to conduct the arbitral proceedings. It is directed accordingly.

6. Accordingly, Mr. Pankaj Agarwal, Advocate (Mob. No.: +91 9811899899) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

7. It is further agreed that the arbitration shall take place under the aegis of and under the rules of the Delhi International Arbitration Centre (DIAC). It is directed accordingly.

8. It is further agreed that the arbitrator appointed aforesaid shall proceed with the arbitration based on the pleadings that have already been filed by the parties. It is directed accordingly.

9. The respondent shall be at liberty to raise preliminary objections as regards arbitrability/jurisdiction, if any, which shall be decided by the arbitrator, in accordance with law.

10. The learned Sole Arbitrator may proceed with the arbitration



2024:DHC:9096



proceedings subject to furnishing to the parties requisite disclosure as required under Section 12 of the A&C Act.

11. All rights and contentions of the parties in relation to the claims/counter claims are kept open, to be decided by the learned Sole Arbitrator on their merits, in accordance with law.

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

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

SACHIN DATTA, J

NOVEMBER 25, 2024/cl