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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision : 22.10.2024**+ **ARB.P. 1552/2024****BHIKAJI MAINTENANCE COMBINE**

.....Petitioner

Through: Mr. Mukesh Kumar, Ms. Meenakshi,
Mr. Rakesh Kharb and Mr. Adarsh
Singh, Advocates.

versus

SAVITRI PODDAR

.....Respondent

Through: None.

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

1. The present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter '*the A&C Act*') has been filed by the petitioner seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties. The disputes between the parties have arisen in the context of a Maintenance Agreement dated 06.02.1989 (hereinafter '*the Agreement*') for maintenance of Flat/Shop No. LG-20/9, Som Datt Chambers I & II, Bhikaji Cama Place, New Delhi-110066 owned by the respondent.

2. It is the case of the petitioner that in accordance with terms and conditions of the Agreement, the petitioner has satisfactorily rendered and executed its contractual obligations towards maintenance services provided to the respondent and all other occupants in the aforesaid premises.

3. The petitioner has been raising detailed quarterly invoices towards



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maintenance charges which were sent to the respondent's registered office. However, the respondent has omitted to pay the requisite maintenance charges, as a result of which disputes have arisen between the parties.

4. The Agreement between the parties contains a dispute resolution clause which reads as under:-

"11. Both parties to this Agreement namely, the Buyer and the B.M.C. agreed and bind themselves that in the event of any dispute relating or connected with (howsoever remote) this Agreement or in respect of the non payment of bills or interest due or interpretation of any clause of this Agreement, the same shall be referred to the Promoter or its nominee for arbitration whose decision will be binding on both the parties and shall be carried out by them as the final adjudication of the said dispute."

5. The disputes having arisen between the parties, the petitioner sent arbitration notices dated 01.02.2022 and 26.07.2024 to the respondent, however, the same were not responded to by the respondent. It is submitted that even for the period subsequent to the arbitration notice, the requisite maintenance charges has not been paid by the respondent, hence, the present petition has been filed seeking appointment of an independent Sole Arbitrator.

6. The respondent has not entered appearance despite service. An affidavit of service has been filed on behalf of the petitioner wherein it has been brought out that the respondent has been duly served through all permissible modes. The relevant extract from the affidavit of service reads as under :-

"2. That I have served the advance physical copy of the captioned Petition under Section 11 of the Arbitration and Conciliation Act on behalf of the Petitioner on the Respondent through speed post at the address known to the Petitioner as mentioned in the memo of parties....."



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7. Since the existence of the Arbitration Agreement is evident from the perusal of the Agreement placed on record, there is no impediment to constituting an Arbitral Tribunal to adjudicate the disputes between the parties. Further, in view of the judgment of the Supreme Court in case of *Perkins Eastman Architects DPC v. HSCC (INDIA) Limited*, (2020) 20 SCC 760, *TRF Limited v. Energo Engineering Projects Limited*, (2017) 8 SCC 377 and *Bharat Broadband Network Limited v. United Telecoms Limited*, (2019) 5 SCC 755, it is incumbent upon this Court to appoint an independent Sole Arbitrator.

8. Accordingly, Ms. Shreya Vedantika Mehra, Advocate (Mob. No. +91 9910027557) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

9. It is made clear that the respondent shall be entitled to raise the jurisdictional objections, if any, before the learned Sole Arbitrator which shall be duly considered and decided by the learned sole Arbitrator in accordance with law.

10. At request of the petitioner, it is directed that the arbitration shall take place under the aegis of and as per the rules of Delhi International Arbitration Centre (DIAC). It is directed accordingly.

11. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosures as required under section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.

12. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator



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on their merits, in accordance with law.

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

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

SACHIN DATTA, J

OCTOBER 22, 2024/at