



\$~30

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

+ **ARB.P. 1769/2024 & I.A. 44732/2024**

INA SHOPKEEPERS WELFARE SOCIETY (REGD)Petitioner

Through: **Mr. Vishal Raj Sehijpal and Ms.
Priyanka Handa Advocates**

versus

NEW DELHI MUNICIPAL CORPORATIONRespondent

Through: **Mr. Sriharsha Peechara, Standing
Counsel, NDMC with Mr. Akshat
Kulshreshtha and Mr. D.S. Bhanu,
Advocates**

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% 12.11.2024

1. The petitioner has filed this petition, under Section 11 of the Arbitration and Conciliation Act, 1996 ('the Act'), seeking appointment of a Sole Arbitrator to adjudicate disputes between the parties under the agreement dated 28.02.2018 ('the Agreement').

2. The Agreement contains an arbitration clause [Clause 24], which provides for adjudication of disputes by a Sole Arbitrator to be nominated by the petitioner. The said clause reads as under:

"24. Any controversy or dispute arising out of this Agreement shall be referred to the sole arbitrator of the Chairperson, NDMC or any officer nominated by him on his behalf. There shall be no bar to reference of dispute to the arbitrator or such an officer & an employee of the NDMC might have dealt with the matter earlier, or expressed his opinion therein. In case the arbitrator to which the matter is originally referred is transferred or vacates his office or is unable to act for any reasons, the Chairperson NDMC shall be competent to appoint another person as arbitrator, who shall be entitled to proceed



with reference, from the stage at which it was left by the predecessor.”

3. Learned counsel for the Petitioner states that the Petitioner has invoked the arbitration clause vide letter dated 13.06.2024, however, the same has not been responded to by the Respondent. He states that in these circumstances, the Petitioner has been constrained to approach this Court under Section 11 of the Act.

4. In reply, learned standing counsel for the Respondent has entered appearance on advance notice and does not dispute the existence of the arbitration agreement or the receipt of the notice invoking arbitration.

5. He states that while the Respondent has no objection to the appointment of a Sole Arbitrator by this Court, he states that the relief sought by the Petitioner overlaps with the reliefs claimed by this Petitioner in W.P.(C) 4202/2023. He states that the Petitioner cannot maintain two proceedings and the Petitioner ought to withdraw the said writ petition. He states that it is needless to state that the claims/pleas raised by the Petitioner in the said writ petition can be adjudicated in the arbitral proceedings.

6. In response, learned counsel for the Petitioner states that the Petitioner undertakes to withdraw the writ petition on or before the next date of hearing i.e., 28.01.2025 while reserving its rights to raise all the claims/pleas raised in the writ petition in the arbitral proceedings.

7. This Court has considered the submissions of the parties and perused the record.

8. 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.

9. In view of the aforesaid admitted facts, Ms. Gunjan Sinha Jain, Advocate (Mob. No: 9811387311, E. No. D/1034/2007 email id: gunjssin@gmail.com) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

10. It is further agreed between the parties that the arbitration shall be conducted under the aegis of, and as per rules of the Delhi International Arbitration Centre (DIAC). It is ordered accordingly. Let a copy of this order be communicated to the Organizer, DIAC.

11. The Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosure as required under Section 12 of the 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 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 is disposed of in the above terms.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 12, 2024/msh/ms