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

+ **ARB.P. 97/2025**

MR ASHWANI GARG

.....Petitioner

Through: Mr. Avinash Trivedi, Mr. Anurag
Kaushik and Mr. Rahul Aggarwal,
Advocates.

versus

**DELHI TOURISM AND TRANSPORTATION DEVELOPMENT
CORPORATION LTD**

.....Respondent

Through: Mr. Umang Tyagi, Mr. Zuber Ali,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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18.02.2025

1. The Petitioner has approached this Court under Section 11(6) of the Arbitration & Conciliation Act seeking appointment of an Arbitrator for adjudicating the disputes between the parties.
2. Material on record indicates that the Respondent had floated a tender inviting bids for construction of three storied SPS building after demolishing 10 No. Dangerous Single Storied Building of Govt. Co-Ed Senior Secondary School, (School ID No. 1822059), Seetor-2, Dwarka, New Delhi.
3. It is stated that the work has been completed on 12.07.2019 and the Petitioner submitted the final bill on 30.09.2019. Since the dispute arose between the parties regarding payment of final bill and a notice under Section 21 of the Arbitration & Conciliation Act was issued on 05.10.2023 for invoking the Arbitration under the contract which is Clause 25. Since the



mechanism provided under the Act was failed. A notice was issued on 15.07.2024 seeking for appointment of an arbitrator. Since there was no response to the said notice the Petitioner had approached the Court for appointing the Arbitrator.

4. Notice in the Petition was issued on 16.01.2025. Reply has been filed.

5. Learned counsel appearing for the Respondent vehemently contents that the claim is barred by the limitation. He states that the final bill has been given in 2019 and therefore, the present petition is clearly barred by limitation. After submitting the final bill in the year 2023, the Petitioner asked for the resolution of the disputes. There were certain talks of resolution which has failed. This present case therefore can be a case of a completely time barred claim. Any event it is open for the respondent to raise this dispute between the Arbitrator and the Arbitrator take a decision as to whether the claim is barred by limitation or not. The present claim at the time of reference on the said to be a dead wood not warranting appointment of an Arbitrator.

6. The counsel for the Respondent also clearly contents that a notice had been issued Section 21 of the Arbitration & Conciliation Act has not been give. The material in records indicates otherwise.

7. The Petitioner first invoke Clause 25 by issuing a letter dated 05.10.2023 invoking Clause 25. The proceedings were failed thereafter 15.07.2024 though it is not specifically stated under Section 21, however, the essence of the said letter is for seeking for appointment of an Arbitrator. Since the other procedure for resolution of disputes had failed.

8. Since there is no appearance on behalf of the Respondents despite issuance of notice, this Court is inclined to appoint an Arbitrator to



adjudicate upon the disputes between the parties.

9. Accordingly, Justice Vipin Sanghi, Former Chief Justice of Uttarakhand High Court (Mob. 9871300037) is appointed as an Arbitrator to adjudicate upon the disputes between the Parties.

10. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

11. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the 1996 Act within two weeks of entering on reference.

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 contentions of the parties.

14. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 18, 2025

SC