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

+ **ARB.P. 488/2025**

MS V S STRUCTURES PVT LTD

.....Petitioner

Through: Mr. Ayyub Ahmad, Mr. Sajid Ali,
Advocates

versus

MS VICTORA HOSPITALITIES PVT LTDRespondent

Through: Mr. Vishal Bhatnagar, Ms. Lata
Walia, Ms. Reena Walia, Ms. Rani
Yadav, Advs.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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20.03.2025

I.A. 6992/2025 (Exemption)

Allowed, subject to all just exceptions.

ARB.P. 488/2025, I.A. 6993/2025

1. This Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate upon the disputes which have arisen between the parties.
2. Though the present Petition has been styled as a Petition for appointment of an Arbitrator but it is in fact a Petition for substitution of the learned Arbitrator on the ground that the learned Arbitrator has passed away.
3. Material on record indicates that the Petitioner is a Contractor whose services were availed by the Respondent. It is stated that disputes arose between the parties and the Arbitrator was appointed by this Court vide Order dated 14.08.2014 in ARB.P.36/2014. The learned Arbitrator



expressed his inability to act as the Arbitrator and accordingly, this Court vide Order dated 10.03.2015 appointed Mr. G. P. Thareja, Retired Additional District Judge, as the Arbitrator.

4. Material on record reveals that on 28.01.2020 arguments were concluded and the award was reserved. Soon thereafter, Covid-19 struck and the award was not pronounced during Covid-19. It is stated that the learned Arbitrator passed away in 2024. The Petitioner has, thereafter, approached this Court by filing the present Petition.

5. Learned Counsel for the Respondent vehemently contends that the mandate of the learned Arbitrator expired and, therefore, under Section 29A of the Arbitration Act, the substitute Arbitrator cannot be appointed.

6. The said statement of the learned Counsel for the Respondent cannot be accepted on the ground that Section 29A of the Arbitration Act came into effect after October, 2015 and it will not have any effect on the Arbitration matters which began before October, 2015. Before Section 29A of the Arbitration Act came into force, there was no time limit stipulated on the Arbitrator to pronounce the award. This lacuna was fixed by bringing in the amendment by enacting Section 29A of the Arbitration Act.

7. Learned Counsel for the Petitioner further contends that the present Petition is barred by limitation for the reason that it has been filed in 2025 whereas the award was reserved in 2020 itself.

8. The said argument also cannot be accepted for the reason that the learned Arbitrator passed away only in 2024. The present Petition has been filed after one year of the death of the learned Arbitrator, which, in the opinion of this Court, is within the period specified under Section 137 of the Limitation Act.



9. In view of the fact that disputes have arisen between the parties and the learned Arbitrator appointed by this Court has passed away, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

10. Accordingly, Mr. Anupam Srivastava, Sr. Advocate (Mob No.9811032151) is appointed as the Sole Arbitrator to adjudicate upon the disputes between the parties.

11. 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.

12. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the Arbitration & Conciliation Act within a week of entering on reference.

13. 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.

14. 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.

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

SUBRAMONIUM PRASAD, J

MARCH 20, 2025

Rahul