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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 753/2025

M/S SARENS HEAVY LIFT INDIA PVT. LTD.Petitioner

Through: Mr. Rajan Gupta and Mr. Shitanshu,
Advocates.

versus

M/S HAJEE. A. P. BAVA AND COMPANY CONSTRUCTIONS
PVT. LTD. & ANR.Respondents

Through: Mr. Sunav Rastogi, Advocate.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

02.09.2025

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1. This petition is filed on behalf of the Petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('1996 Act') seeking appointment of the Sole Arbitrator in terms of Clause 17 of the Work Orders dated 23.04.2022 and 28.05.2022.
2. As per the case set out by the Petitioner, Respondents issued two Work Orders 23.04.2022 and 28.05.2022 on the Petitioner. Petitioner provided the requisite services under the Work Orders and raised various invoices/bills for the services rendered between 31.05.2022 to 15.09.2022. Petitioner avers that as per the ledger account maintained by the Petitioner, an amount of Rs.2,36,00,000/- towards principal amount is due from the Respondents along with interest. There being an arbitration clause in the Work Orders, Petitioner sent notice invoking arbitration to the Respondents on 25.02.2025 to which a reply was sent by the Respondents denying the claims and declining to give consent to the proposed sole Arbitrator.



3. Issue notice.
4. Mr. Sunav Rastogi, learned counsel accepts notice on behalf of the Respondents.
5. Learned counsel for the Respondents opposes the appointment of the Arbitrator on two-fold grounds. Firstly, it is urged that the notice invoking arbitration was sent only in respect of Work Order dated 28.05.2022 and hence, no reference can be made with respect to alleged disputes arising from Work Order dated 23.04.2022. Secondly, it is submitted that Respondent No.1 is a non-signatory to the arbitration agreement and cannot be referred for arbitration.
6. Insofar as the first objection is concerned, learned counsel for the Petitioner, on instructions, candidly and fairly submits that at this stage, the disputes with respect to Work Order dated 23.04.2022 may not be referred but liberty be granted to the Petitioner to invoke arbitration in respect thereto. Insofar as the second objection is concerned, it is urged that Respondent No. 1 is a necessary party to the dispute and hence there can be no objection for reference to arbitration. Without prejudice, it is submitted that even otherwise, this issue is to be considered by the Arbitrator and not by a referral Court.
7. Having heard learned counsels for the parties, in my view, there is merit in the submission that the question whether Respondent No. 1 being a non-signatory to the Work Orders is a necessary party is to be determined by the Arbitrator. In this context, I may allude to the judgments of the Supreme Court in ***Cox and Kings Limited v. SAP India Private Limited and Another, (2024) 4 SCC 1***; and ***ASF Buildtech Private Limited v. Shapoorji Pallonji and Company Private Limited, 2025 SCC OnLine SC 1016***.



8. At this stage, learned counsels for the parties jointly propose the name of Mr. Sudhanshu Batra, Senior Advocate to be appointed as a sole Arbitrator, without prejudice to the rights and contentions of the Respondents to raise the issue of Respondent No. 1 being non-signatory to the arbitration agreement before the Arbitrator.
9. Accordingly, this petition is allowed appointing Mr. Sudhanshu Batra, Senior Advocate (Mobile No. 9811035392) as a sole Arbitrator to adjudicate the disputes between the parties in respect of Work Order dated 28.05.2022. Liberty is granted to the Petitioner to invoke arbitration in respect of Work Order dated 23.04.2022, if so advised. Fee of the Arbitrator, as agreed, will be as per Fourth Schedule of the 1996 Act.
10. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering upon reference.
11. It is made clear that this Court has not expressed any opinion on the merits of the case and all rights and contentions of the parties are left open.
12. It will be open to the Respondents to take objection to Respondent No.1 allegedly being a non-signatory to the arbitration agreement before the learned Arbitrator.
13. Petition stands disposed of in the aforesaid terms.

JYOTI SINGH, J

SEPTEMBER 2, 2025
Ch/Shivam