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

+ **ARB.P. 761/2025**

M.V. OMNI PROJECTS (INDIA) LTD.

.....Petitioner

Through: Mr. Vivekanand, Advocate.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Ruchir Mishra, Mr. Sanjiv Kr. Saxena, Mr. Mukesh Kr. Tiwari, Ms. Poonam Shukla and Ms. Reba Jena Mishra, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

20.05.2025

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1. This petition is filed on behalf of the Petitioner under Section 15 read with Section 11(6) of the Arbitration and Conciliation Act, 1996 ('1996 Act') for appointment of a substitute Arbitrator in view of the fact that the Sole Arbitrator, who was appointed by this Court vide order dated 04.10.2024 in ARB.P. 703/2023, has recused himself from the arbitral proceedings in view of his appointment as the Chairman of the Law Commission of India.

2. Disputes between the parties in respect of a Contract Agreement bearing No. 804-A/Cs/Dy.C.E./C-II-LKO dated 16.06.2016 entered into between the parties for work of "*Phaphamau-Allahabad Section: Balance earth work in embankment & cutting including mechanical compaction using vibrating roller, laying and compaction of blanketing as per RDSO*



guidelines for heavy axle load etc. between Km. 144.05 to Km.156.95 (i.e., Phaphamau Railway Station including yard and Allahabad Railway Station excluding yard) in connection with doubling between Phaphamau-Allahabad Section of Lucknow division. (CA No. 74-W/1/1/WA/Misc/LKO)”.

3. Petitioner invoked the Dispute Resolution Clause 63 vide communication dated 30.09.2022, in response to which, Respondent addressed a communication dated 15.03.2023 proposing names of four retired Gazetted Officers of the Railways, calling upon the Petitioner to choose two names. However, Petitioner objected to the panel of retired Railway Officers vide letter dated 29.03.2023 and proposed names of independent persons to be appointed as the Arbitrator. Since there was a dispute between the parties, Petitioner filed a petition in this Court under Section 11(6) of 1996 Act being ARB.P. 703/2023, which was allowed on 04.10.2024, appointing a Sole Arbitrator.

4. This petition has been filed seeking appointment of a substitute Arbitrator on account of the fact that the appointed Sole Arbitrator has recused himself.

5. Issue notice.

6. Mr. Ruchir Mishra, learned counsel accepts notice on behalf of the Respondent and on instructions, submits that Respondent has no objection to the appointment of a substitute Arbitrator, *albeit* he contends that some part of the arbitral fee stands paid to the earlier Arbitrator.

7. Accordingly, with the consent of the parties, Mr. Justice G.P. Mittal, former Judge of this Court (Mobile No. 9910384619), is appointed as the substitute Arbitrator to adjudicate the disputes between the parties. Arbitral



proceedings will be held under the aegis of DIAC and as per its Rules. Fee of the Arbitrator shall be as per fee schedule of DIAC (Administrative Cost & Arbitrators' Fees) Rules 2018.

8. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering upon reference.

9. 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 respective parties, including part payment of the fee are left open to be raised before the learned Arbitrator.

10. As agreed, learned substitute Arbitrator will resume the arbitral proceedings from the stage at which they are pending.

11. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

MAY 20, 2025

S.Sharma