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

+ **ARB.P. 1333/2024**

**ELLORA INFRATECH PRIVATE LIMITED THROUGH ITS
AUTHORIZED REPRESENTATIVE MR. IM TIYAZ AHMED
ANSARI**Petitioner

Through: Mr. Yogesh Jagia, Mr. Amit Sood,
Mr. Chandan Dutta and Mr. Aditya
Jagia, Advocates

versus

CLOUD 9 PROJECTS PVT LTD.Respondent

Through: Mr. Ashish Dholakia, Senior
Advocate with Mr. Utkarsh Sharma
and Mr. Subhoday Banerjee,
Advocates

**CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

ORDER
08.01.2025

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1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 by the Petitioner seeking appointment of an Arbitrator to adjudicate upon the disputes which have arisen between the Parties under a Real Estate Development Agreement dated 14.01.2016 and its addendum dated 22.07.2019.

2. Material on record discloses that an Arbitration Petition being ARB.P 732/2023 was filed by the Petitioner for appointment of an Arbitrator in terms of Clause 9.2 of the Agreement. The Petitioner had nominated its Arbitrator. This Court vide Order dated 14.05.2024 disposed of the said petition by recording the submission of the learned Counsel for the Respondent that they would nominate their Arbitrator within two weeks and,



thereafter, the Presiding Arbitrator was to be appointed by the said two Arbitrators who had been nominated by the parties. It is stated that the Respondent has yet not appointed its Arbitrator.

3. Learned Counsel appearing for the Respondent fairly submits that they have yet not appointed its Arbitrator and submits that this Court may appoint a Sole Arbitrator to adjudicate upon the disputes between the parties. This submission is not contested by the learned Counsel for the Petitioner.

4. Learned Counsel for the Respondent also submits that he has issues regarding validity, enforceability and arbitrability of the disputes. It is now settled that this issue will be dealt with by the Arbitrator and not the referring Court.

5. In view of the fact that disputes have arisen between the parties and the Agreement contains an arbitration clause, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

6. Accordingly, Mr. Sanjay Kishan Kaul, former Judge of the Supreme Court of India, (Mob. No. 9818000370) is appointed as an Arbitrator to adjudicate upon the disputes between the Parties.

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

SUBRAMONIUM PRASAD, J

JANUARY 08, 2025

S. Zakir