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

+ **ARB.P. 1375/2024 & I.A. 38602/2024**

M/S JAGBASERA INFRATECH PRIVATE LIMITED

.....Petitioner

Through:

versus

M/S RAWAL VARIETY CONSTRUCTION LTDRespondent

Through: **Mr. Karan Dewan, Advocate.**

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

30.01.2025

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1. The Petitioner has approached this Court under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate upon the disputes between the parties which have arisen under a Memorandum of Understanding dated 28.09.2011 for a project i.e. "Valley View Apartment" entered into between the parties.

2. It is stated that the Respondent was the Developer and the Petitioner was the Promoter for a project as "Valley View Apartment" on a stretch of land admeasuring 21.70 bighas situated in the Mauza Nando Tehsil Solan, District Solan, Himachal Pradesh. Despite the fact that the Petitioner has paid an amount of Rs.4,21,37,850/- towards the Valley View Apartment, the Respondent has failed to proceed further. Therefore, the disputes have arisen between the parties under the Memorandum of Understanding dated 28.09.2011.



3. Clause 17 of the Memorandum of Understanding dated 28.09.2011 contains an Arbitration Clause which states that the parties have decided to resolve their disputes through arbitration and the seat and venue of the arbitration shall be at New Delhi.
4. Notice in the present petition was issued on 06.09.2024.
5. Reply to the petition was not filed at the first instance. Vide Order dated 20.11.2021 passed by this Court, learned Counsel for the Respondent was permitted to file the reply within two weeks, subject to the payment of costs of Rs.10,000/-. The reply was not filed by the Respondent within two weeks and the same has been filed only on 28.01.2025. Therefore, the reply has not been taken on record.
6. It is stated by the learned Counsel for the Respondent that, thereafter, an application has been filed waiver of cost which is under objection and is yet to be numbered. He prays that the costs may be waived as he would have to pay the costs out of his pocket.
7. Considering the submissions made by young Counsel appearing on behalf of the Respondent, this Court is inclined to allow the application for waiver of costs. The costs stand waived.
8. The delay in filing the reply also stands condoned. The reply be taken on record.
9. During the course of hearing, respective Counsel for the parties jointly request that an independent Sole Arbitrator be appointed to adjudicate the disputes between the parties.
10. Accordingly, Mr. Anant Palli, Senior Advocate (Mob. No. 9810199102) is appointed as a 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

JANUARY 30, 2025

RJ