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

+ **ARB.P. 1928/2024**

LOVLESH JAIN

.....Petitioner

Through: **Mr. Karan Bahl and Mr. Himanshu Gupta, Advocates.**

versus

SUNRAYS INFRASTRUCTURE PVT LTD & ORS.....Respondents

Through: **Mr. Deepak Singh Poonia, Advocate for respondent no.1.**

+ **O.M.P.(I) (COMM.) 342/2024, IA 4820/2025**

SH. LOVLESH JAIN

.....Petitioner

Through: **Mr. Karan Bahl and Mr. Himanshu Gupta, Advocates.**

versus

SUNRAYS INFRASTRUCTURE

PVT. LTD. & ORS.

.....Respondents

Through: **Mr. Deepak Singh Poonia, Advocate for respondent no.1**

Mr. Rahul Bhardwaj and Ms. Lavanya Kaushik, Advocates for respondent nos. 2,3,7 and 8.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

11.03.2025

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ARB.P. 1928/2024

1. By way of present petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), the petitioner seeks appointment of Arbitral Tribunal comprising of a Sole Arbitrator, to adjudicate upon the disputes between the parties.

2. Learned counsel for the petitioner submits that the parties had entered



into a Business Advance Agreement dated 24.05.2022, Clause 6 whereof provides that disputes arising between the parties with respect to the subject Agreements shall be resolved by reference to arbitration to be governed in accordance with provisions of the A&C Act. It further stipulates the venue and seat of arbitration to be New Delhi.

3. Disputes having arisen between the parties, the petitioner invoked arbitration vide notice dated 03.10.2024 issued to the respondents under Section 21 of the A&C Act.

4. Mr. Rahul Bhardwaj, Advocate, submits that in the last order, his appearance has inadvertently been marked for respondent Nos. 1-4, however, he appears for respondent Nos. 2, 3, 7 and 8. Moreover, he submits on behalf of respondent Nos. 2, 3, 7 and 8 that, without prejudice to their rights and contentions, they have no objection to the present disputes being referred to arbitration, and he prays that his liberty be reserved for raising all objections before the Arbitral Tribunal so constituted.

5. Mr. Deepak Singh Poonia, learned counsel for respondent No.1 also submits that, without prejudice to its rights and contentions, respondent No.1 has no objection to the present disputes being referred to arbitration.

6. Insofar as respondent Nos. 4, 5 and 6 are concerned, learned counsel for the petitioner submits that they have been duly served. In this regard, learned counsel has drawn the attention of the Court to the affidavit of service dated 01.02.2025, as per which, all the respondents except respondent No.8 have been served through speed post as well as through email. The same is also accompanied by the tracking report, which notes that the items were delivered. However, there is no appearance on behalf of respondent Nos. 4, 5 and 6 despite service. In fact, no reply has been filed on



their behalf either. In view of the aforesaid, respondent Nos. 4, 5 and 6 are held to be served and it appears that they have no objection to referring the disputes to arbitration.

7. At this stage, learned counsels for the parties, on instructions, jointly pray that that the accompanying petition, i.e., O.M.P.(I) (COMM.) 342/2024 filed under Section 9 of the A&C Act be treated as an application under Section 17 of the Act, to be considered by the Arbitral Tribunal so constituted. Learned counsel for the petitioner also prays that the interim order dated 04.10.2024 passed in the accompanying petition be continued till taken up for consideration by the said Arbitral Tribunal.

7. In view thereof, the present petition is disposed of with the following directions:

- i) The disputes between the parties under the subject agreements are referred to the Arbitral Tribunal. The accompanying petition being O.M.P.(I) (COMM.) 342/2024 filed under Section 9 of the A&C Act be treated as one under Section 17 of the A &C Act.
- ii) Ms. Justice Rekha Palli, former Judge of High Court of Delhi, (Mob.No. 9810012120) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.
- iii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the 'DIAC'). The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018 or as the parties may agree.
- iv) The learned Arbitrator shall furnish a declaration in terms of Section 12 of the A&C Act prior to entering into the reference.



- v) It is made clear that all the rights and contentions of the parties, including on the existence and validity of the Arbitration agreement, arbitrability of any of the claim/counter claim, any other preliminary objection, need and legality of interim relief, as well as contentions on merits of the dispute by either of the parties, are left open for adjudication by the learned arbitrator.
- vi) The parties shall approach the learned Arbitrator within two weeks from today.

O.M.P.(I) (COMM.) 342/2024

1. In view of the order passed in ARB.P. 1928/2024, and considering the fact that the dispute between the parties stands referred to the learned Sole Arbitrator, let the present petition itself be treated as an application under Section 17 of the A&C Act and decided accordingly by the learned Arbitral Tribunal so constituted.
2. It is made clear that the interim order dated 04.10.2024 shall continue till the application is taken up for consideration by the learned Arbitrator and the parties shall be at liberty to seek its continuation, confirmation, modification or vacation of the same before the Ld. Arbitrator.
3. The petition is disposed of in the above terms.

MANOJ KUMAR OHRI, J

MARCH 11, 2025/rd