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

+ **ARB.P. 1983/2024**

BADRI PRASAD GOYAL

.....Petitioner

Through: Mr. S.K. Pal, Advocate (through VC)

versus

GANNON DUNCKELY AND CO LTDRespondent

Through: Mr. Vaibhav, Advocate

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **29.04.2025**

1. This petition has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 ('A&C Act') seeking appointment of a Sole Arbitrator to adjudicate the disputes that have arisen between the parties.
2. It is stated in the petition that the disputes between the parties emanate from Purchase Orders dated 26.12.2019 and 04.03.2020. The arbitration clause is contained in Clause 9 of the aforesaid purchase orders.
3. It is stated that the Petitioner is the Sole Proprietor of M/s Kailadevi Stone Impex. The Respondent, is a public limited company engaged in civil construction. It is stated that the parties have a business relationship concerning the supply of construction materials.
4. It is stated the Petitioner received Purchase Orders dated 26.12.2019 and 04.03.2020 from the Respondent for the supply of Kota stone and Granite. In performance of the said orders, the Petitioner raised five invoices between January and August 2020 totalling Rs. 17,91,216/-.



5. It is stated that despite the contractually stipulated 30-day payment period, the Respondent only released Rs 8,00,000/- in tranches, the last being on 29.12.2020. The remaining principal amount of Rs. 9,91,216/- remains unpaid. Additionally, interest at 24% per annum as per invoice terms has accrued with principal amount of Rs. 9,91,216/- leading to a total outstanding of Rs. 20,99,653/- as of 30.10.2024.

6. It is stated that the Petitioner sent repeated requests and reminders including personal follow-ups with the Respondent's site officers; the dues remain unpaid. An assurance dated 27.10.2022 by the Respondent's representative also went unfulfilled.

7. It is stated that the Petitioner issued multiple notices dated 02.11.2022, 10.11.2022, 11.11.2022, 22.11.2022, and 23.12.2022 seeking payment. Notice invoking arbitration and proposing appointment of a Sole Arbitrator was served on 10.06.2023. However, Respondent failed to reply to invocation notice.

8. In view of the foregoing facts, the Petitioner has approached this Court for appointment of a Sole Arbitrator under Section 11(5) of the Act.

9. This Court vide order dated 25.02.2025, on agreement by both the parties, referred the matter before the Mediator, Delhi High Court Mediation and Conciliation Centre ('DHCMCC').

10. Learned counsel for the Petitioner and Respondent state that mediation proceeding is still pending, though no date in the mediation proceeding has been fixed by the Mediator.

11. They state that parties are ready and willing to consider mediation and would await the mediation.

12. This Court has received the mediation report dated 20.04.2025 which



states that mediation stands closed as a non-starter.

13. However, in view of the submissions of the parties, the matter is referred back to the DHCMCC with a request to the Organizing Secretary to kindly ensure that a hearing is held.

14. List before the Mediation Centre and the same mediator on **16.05.2025 at 03:00 P.M.**

15. The mediator will conclude the mediation before 25.07.2025 and send its final report to this Court and Co-ordinator DIAC.

16. Parties have also requested for issuance of default directions, to appoint an Arbitrator in case of failure of mediation.

17. In the facts of this case, it is admitted by the parties that there exists a valid arbitration agreement and the Petitioners values its claim at Rs. 20.9 lakhs approximately and thus, the parties are referred to arbitration under the aegis of the Delhi International Arbitration Centre ('DIAC'). However, keeping in view the reference to mediation, the Arbitrator appointed herein shall only enter appearance on 01.08.2025.

18. In view of the above, the disputes between the parties under the said agreements are referred to a sole Arbitrator with the following directions:

- i. **Ms. Rachita Garg Advocate** (D- 3626/2016 (Mob. No.7838066417; E-mail: rachitagargoffice@gmail.com) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii. The arbitration will be held under the aegis of the Delhi International Arbitration Centre ('DIAC'). The remuneration of the learned Arbitrator shall be in terms of Schedule IV of the Act of 1990 as amended by the Rules of DIAC or as the parties may agree.
- iii. The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act of 1996 Act before entering into the reference.
- iv. It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claims, any other preliminary



objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.

16. List before the Sole Arbitrator at DIAC on 11.08.2025 at 10.30 AM for a preliminary hearing.

17. With the aforesaid direction, the petition stands disposed of.

16. Copy of the order be sent to the Organizing Secretary of the Delhi High Court Mediation & Conciliation Centre, DIAC and learned arbitrator for information and compliance.

17. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

APRIL 29, 2025/mt/akp

[Click here to check corrigendum, if any](#)