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

+ **ARB.P. 591/2025**

SUPREME INFRASTRUCTURE INDIA LTDPetitioner

Through: Mr. Subhro Prokas Mukherjee, Mr.
Ashok Tripathi and Mr. Kaustabh Singh,
Advocates.

versus

UNION OF INDIA & ANR.Respondents

Through: Dr. B. Ramaswamy, CGSC.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

08.09.2025

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1. This petition is filed on behalf of the Petitioner under Section 11(6) of Arbitration and Conciliation Act, 1996 ('1996 Act') for appointment of a Sole Arbitrator.

2. Reply has been filed on behalf of the Respondents, which is not on record. Hard copy of the reply is handed over in Court during the course of hearing and with consent of the parties, it is taken on record.

3. To the extent necessary, the factual matrix is that Respondent No. 2 invited bids on 23.07.2012 for '*Construction of Additional Office Complex for the Supreme Court of India adjoining Pragati Maidan, New Delhi, SH: RCC Frame-work including Three Level Basement*'. Being a successful bidder, work was awarded to the Petitioner and a formal Agreement was signed on 15.10.2012 with stipulated date of completion of the project being 06.08.2014. On 14.08.2014, Petitioner sought extension of time, which was



granted upto 11.11.2014 vide letter dated 20.08.2015. Liquidated damages were levied by Respondent No. 2 on 30.12.2015. Disputes having arisen, parties took recourse to arbitration proceedings, which culminated in an arbitral award dated 05.06.2018, whereby part claims of the Petitioner were allowed and counter claim of Respondent No. 2 was dismissed.

4. It is stated in the petition that Petitioner challenged the award before this Court in O.M.P.(COMM.) 442/2018 and vide judgment dated 21.08.2024, the award was set aside by the Court on the ground that the appointment of the Arbitrator was hit by Section 12(5) of 1996 Act read with Seventh Schedule. Subsequent to this, Petitioner again invoked arbitration and sent notice dated 18.11.2024 under Section 21 of 1996 Act to Respondent No. 2 but there was failure to consent to the Arbitrator and present petition was filed.

5. Learned counsel for the Petitioner submits that this petition has been filed after the arbitral award dated 05.06.2018 was set aside by this Court and since existence of the arbitration agreement is not in dispute, there can be no impediment in appointing an Arbitrator to adjudicate the disputes between the parties.

6. Learned counsel for the Respondents submits that Petitioner has no case on merits and is guilty of non-performance and consequently delay in completion of the project in question *albeit* it is fairly conceded that existence of the arbitration agreement is not in dispute.

7. It is trite that it is not for a referral Court under Section 11(6) of 1996 Act to enter into adjudication of *inter se* disputes between the parties on merits. The Supreme Court has held in ***SBI General Insurance Co. Ltd. v. Krish Spinning, 2024 SCC OnLine SC 1754***, that the scope of enquiry by a



referral Court is confined to determining the existence of an arbitration agreement as also whether the petition itself is barred by limitation under Article 137 of Limitation Act, 1963. It is not Respondents' case that the petition is barred by time and quite clearly existence of the arbitration agreement is not in dispute. Therefore, it is rightly contended by the Petitioner that there is no impediment in appointing an Arbitrator.

8. As per Clause 25(ii) of General Conditions of Contract, 2010 ('GCC'), disputes between the parties are to be referred for adjudication by a Sole Arbitrator appointed by Chief Engineer, CPWD. There can be no quarrel that appointment of the Arbitrator by the Chief Engineer, CPWD, which is a party to the *lis* will be a unilateral appointment and in fact in the earlier round of litigation, appointment of Chief Project Manager by Chief Engineer, CPWD was held to be bad in light of the judgment of the Supreme Court in ***Perkins Eastman Architects DPC and Another v. HSCC (India) Limited, (2020) 20 SCC 760***. Therefore, it is rightly submitted by the Petitioner that this Court may appoint a Sole Arbitrator inasmuch as appointment by the Chief Engineer, CPWD will again suffer from the same illegality, for which reason the award was set aside.

9. Accordingly, Mr. Justice Sanjiv Khanna, former Chief Justice of India (Mobile No. 9818123334) is appointed as Sole Arbitrator to adjudicate the disputes between the parties. Fee of the learned Arbitrator will be fixed as per Fourth Schedule of 1996 Act.

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

11. 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 parties are left open.



12. Petition is disposed of in the aforesaid terms.

SEPTEMBER 8, 2025
Ch

JYOTI SINGH, J