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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CO.PET. 657/2015 & CO.APPL. 1301/2018, CO.APPL. 115/2019, CO.APPL. 201/2019, CO.APPL. 1088/2019, CO.APPL. 1089/2019, CO.APPL. 1134/2019, CO.APPL. 1347/2019, CO.APPL. 68/2020, CO.APPL. 1/2021, CO.APPL. 2/2021, CO.APPL. 756/2022, CO.APPL. 853/2023

SANJEEV AGENCY PVT. LTD.

.....Petitioner

Through:

versus

ACCURATE TRANSFORMERS LTDRespondent

Through: Ms. Priyadarshini Dewan
& Mr. M. Singhal, Advs.
for Ex Management.

Mr. Abhishek Maratha,
Standing Counsel for OL
with Ms. Nupur Sharma,
Adv.

Mr Arjun Nanda, Adv. for applicant in
CO.APPL. 115/2019,
CO.APPL. 1088/2019 &
CO.APPL. 1089/2019.

Mr. Pradeep Misra with
Mr. Daleep Dhyani, Adv.
for applicant in
CO.APPL.756/2022

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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29.01.2025

CO.APPL. 756/2022

1. The applicant claims to have entered into a contract for supply and service with the company (in liquidation) on 27.09.2014.

2. The work thereafter was assigned to the company (in



liquidation) and it is claimed by the applicant that the work carried out was not commensurate with the period mentioned in the agreement.

3. It is claimed that from 23.01.2016 till 18.04.2017 the progress of work by the company (in liquidation) was slow and consequently, the applicant terminated the contract on 25.05.2017.

4. It is submitted that a bank guarantee was issued by the company (in liquidation) and a letter for invocation of the said guarantee was also issued by the applicant, however, the applicant was restrained from invoking the bank guarantee by the order dated 30.06.2017 passed by this Court in a petition being IMP (I)(Comm.) No. 238/2017.

5. It is stated that the said petition was disposed of with a direction to the company (in liquidation) to appoint an Arbitrator.

6. The learned counsel for the applicant submits that the Arbitrators were thereafter appointed by the applicant as well as by the company (in liquidation), however, no consensus was arrived at between the Arbitrators appointed and presiding Arbitrator was not appointed. He submits that same led to filing of an arbitration petition before this Court for appointment of a presiding Arbitrator.

7. He submits that Official Liquidator appeared in the arbitration petition and contended that the permission is required to be taken from this Court for continuing with the arbitration proceedings in terms of Section 446 of the Companies Act, 1956.

8. The applicant claims that approximately ₹3,41,21,183/- is outstanding as on 06.05.2017.

9. The present application has been filed by the applicant



under Section 446 of the Companies Act, 1956 read with Rule 9 of the Companies (Court) Rules 1959, for leave to pursue the Arbitration Petition No. 642/ 2019 filed before this Court.

10. No reply has been filed on behalf of the Ex-Directors from the last two years. Much water has flown since the filing of the petition way back in the year 2015. The arbitration petition was also filed in the year 2019.

11. This Court has put to the learned counsel for the applicant as well as the learned Standing Counsel for the Official Liquidator if they have any objection if the presiding Arbitrator is appointed by this Court.

12. They submit that the presiding Arbitrator be appointed by this Court in the present proceedings itself so that no further time is wasted. The learned counsels submit that the amount, if any determined, would only be payable in terms of the Companies Act, 1956.

13. In view of the above, Hon'ble Justice P.K. Bhasin, Former judge of Delhi High Court (Tel. 9871300032) is appointed as the presiding arbitrator.

14. At joint request, it is directed that the arbitration shall take place under the aegis of and as per the rules of Delhi International Arbitration Centre (DIAC).

15. The application is allowed in the aforesaid terms.

CO.APPL. 115/2019

16. The learned counsel for the applicant submits that the applicant is not claiming any right over the super structure built over the land in question. He submits that undisputedly the Sale Deed which was executed in the year 1977 in favour of the applicant has been verified and no defect in the title has been



found. He submits that the land was given to the company (in liquidation) which had constructed a shed over the said land for the purpose of business. He submits that the plant and machinery in the said structure built over the land in question has already been sold.

17. He submits that he will take instructions if the applicant is willing to compensate in case the structure made over the land in question is handed over to the applicant itself.

18. List on 25.03.2025.

CO.PET. 657/2015 & CO.APPL. 1301/2018, CO.APPL. 201/2019, CO.APPL. 1088/2019, CO.APPL. 1089/2019, CO.APPL. 1134/2019, CO.APPL. 1347/2019, CO.APPL. 68/2020, CO.APPL. 1/2021, CO.APPL. 2/2021 & CO.APPL. 853/2023

19. List on 25.03.2025.

AMIT MAHAJAN, J

JANUARY 29, 2025

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