

\$~1, 2 and 3

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

+ ARB.P. 22/2021

AMARDEEP BUILDERS Petitioner
Through Ms. Stuti Jain and Mr. Akshu
Jain, Advocates

versus

G.N.C.T. OF DELHI Respondent
Through Mr. Anuj Chaturvedi, Adv. for
DSIIDC

+ ARB.P. 23/2021

AMARDEEP BUILDERS Petitioner
Through Ms. Stuti Jain and Mr. Akshu
Jain, Advocates

versus

G.N.C.T. OF DELHI Respondent
Through Ms. Richa Dhawan, Adv. for
DSIIDC

+ ARB.P. 24/2021

AMARDEEP BUILDERS Petitioner
Through Ms. Stuti Jain and Mr. Akshu
Jain, Advocates

versus

G.N.C.T. OF DELHI Respondent
Through Mr. R.K. Dhawan, Standing
Counsel for DSIIDC

CORAM:

HON'BLE MR. JUSTICE C .HARI SHANKAR

O R D E R (ORAL)

%

13.08.2021

(Video-Conferencing)

C .HARI SHANKAR, J.

1. These are petitions under Section 11 of the Arbitration and Conciliation Act, 1996 (“the 1996 Act”), seeking reference of the disputes between the parties to arbitration.

2. While learned counsel for the GNCTD in Arb. P. 22/2021 and Arb. P. 23/2021 was agreeable to the matter being referred to arbitration by an arbitrator to be appointed by the Court, Mr. Dhawan, learned counsel for the respondent in Arb. P. 24/2021 seeks a caveat, while appointing the arbitrator, to the effect that the arbitrability of the dispute as well as all defences available in law including the plea of limitation should be left open to be agitated before the learned Arbitral Tribunal.

3. In view thereof, I do not deem it necessary to burden this order with any detailed reference to the facts of the case. As there are three separate Arbitration Agreements between the parties, following the law laid down by the Supreme Court in *Duro Felguera, S.A. v. Gangavaram Port Ltd.*¹, there would have to be three separate arbitrations.

4. The arbitrator would, therefore, be entitled to three separate fees, each of which would be fixed in accordance with the Fourth Schedule to the 1996 Act, as requested by parties.

5. Inasmuch as the disputes are between the same parties and are similar in nature, I deem it appropriate, in order to ensure an expeditious resolution thereof, that the disputes be referred to arbitration by the same arbitrator. This, in my view, would not infract, in any manner, the Fifth Schedule to the 1996 Act or Serial No. 24 thereof, as that applies to a situation in which, at the time of appointment of the arbitrator, he is already serving or has served in the past, as arbitrator for either of the parties in a similar case. No such infirmity applies in the present case.

6. As such, the disputes are referred to Hon'ble Mr Justice Rajiv Sahai Endlaw, a learned retired Judge of this Court, who is requested to arbitrate thereon. The learned Arbitrator may be contacted at Ph. No. : 9717495002 and E-mail ID : rsendlaw@gmail.com).

7. The learned arbitrator would submit the requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on reference.

8. This Court has not expressed any opinion on the contentions of either of the parties and all issues of facts and law remains open to be agitated before the learned arbitrator.

9. These petitions stand disposed of accordingly.

C.HARI SHANKAR, J

AUGUST 13, 2021/ r.bararia