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

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***Date of decision: 31.08.2021***

+ ARB.P. 546/2021

MR KAMAL KHOSLA & ORS. .... Petitioners

Through Appearance not given

versus

MR VIDYA SAGAR SAREEN & ORS. .... Respondents

Through Mr. Atul Gupta, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT**

**J U D G M E N T (oral)**

1. The present petition has been filed by the petitioners under Section 11(6)(a) of the Arbitration and Conciliation Act, 1996 seeking appointment of Arbitrator calling upon the respondents to adjudicate the disputes in terms of Clause 14.8 of Share Purchase Agreement dated 14.12.2018 (hereinafter referred as “the Agreement”).

2. According to petitioner, respondents No. 1 and 2 jointly approached the petitioners to purchase their entire shareholding being 41.12% in respondent No.3 i.e. Tratec Engineers Private Limited, for mutually agreed consideration of Rs.6,16,62,485/-. On 14.12.2018, the Agreement was

executed, according to which respondents No.1 and 2 promised to buy 41.12% shareholding of respondent No.3 which was held by petitioners.

3. Respondent No. 1 (through its associated ventures) purchased 2% of shareholding by paying a sum of Rs. 30,00,000/- on 14.12.2018.

4. Second installment under the agreement was due on 30.06.2019 but the respondents failed to perform their part of obligation of making payment of Rs.98,31,176/- towards transfer of 57,418 shares as per terms and conditions recorded in the aforesaid Agreement.

5. According to petitioners, respondents partially performed their part of obligation by paying a sum of Rs.98,00,000/- against due amount of Rs.98,31,176/-. Thus, leaving an outstanding balance of Rs.31,176/- towards the second Tranche of the transaction. Further, respondents failed to pay third Tranche due on 31.12.2019.

6. On 15.07.2020, respondent No.1 raised dispute on frivolous grounds which petitioners denied vide notice dated 05.08.2020.

7. Respondents again failed to pay for the fourth Tranche due on 31.12.2020.

8. Petitioners initiated insolvency proceedings against second and third installment default before National Company Law Tribunal, which was withdrawn with liberty to pursue future legal recourse.

9. Thereafter, petitioners sent a legal notice dated 12.04.2021 for appointment for Arbitrator and nominated Justice (Retd.) Rameshwar Singh Malik as per clause 14.8 of the Agreement. However, the respondents failed to nominate and appoint their Arbitrator. Hence, the present petition has been filed.

10. At the hearing, learned counsel for the parties jointly state that instead of adjudication of disputes by three Arbitrators, sole Arbitrator be appointed by this Court.

11. Accordingly, **Justice (Retd.) Sunil Gaur (Mobile: 9971000718)** is appointed sole Arbitrator to adjudicate the dispute between the parties in this petition.

12. The fee of the learned Arbitrator shall be governed by the Fourth Schedule of the Arbitration and Conciliation Act, 1996.

13. The learned Arbitrator shall ensure compliance of Section 12 of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

14. A copy of this order be sent to the learned Arbitrator for information.

15. With aforesaid directions, the present petition is disposed of.

**SURESH KUMAR KAIT, J**

**AUGUST 31, 2021**

**rk/r**

