

\$~8.

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

+ CS(OS) 404/2015 & IA No. 3151/2015

KUL BHUSHAN AHUJA Plaintiff
Through: Mr.Arun Sukhija, Advocate

versus

LAKSHAY SACHDEVA & ORS. Defendants
Through: Mr. Kirti Uppal, Sr.Advocate with
Mr.Satish Sharma, Advocate

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

% **ORDER**
22.05.2015

IA No.3992/2015(by the plaintiff u/S 151 CPC for directions)

1. The present application has been filed by the plaintiff stating *inter alia* that there is an arbitration clause contained in the Collaboration Agreement dated 22.9.2010, where the name of the Arbitrator has been left blank. Learned counsel for the plaintiff submits that in view of the said clause, the court may exercise its powers under Section 8 of the Arbitration and Conciliation Act, 1996, and appoint an Arbitrator to adjudicate the disputes between the parties, subject matter of the said Collaboration Agreement. Clause 13 of the Collaboration Agreement executed by the parties is reproduced hereinbelow:

"13: Arbitration clause: That both the parties mutually

agree that in case of any dispute or differences arising between the parties regarding the terms and conditions of the said agreement referred to above, the same shall be referred to _____ who will decide the dispute and whose decision shall be final and binding on both the parties.”

2. Notice was issued on this application on 9.3.2015, returnable on 13.5.2015. Reply to the application has been filed by the defendants.

3. Mr.Uppal, learned Senior Advocate appearing for the defendants states that his clients have no objection to the disputes, subject matter of the present suit being referred to an Arbitral Tribunal on the condition that the defendant’s counter claims, may also be referred for adjudication to the same Arbitral Tribunal.

4. Counsels for the parties jointly state that they do not have any objection if a retired Judge of this High Court is appointed as an Arbitrator to adjudicate the disputes between the parties.

5. Accordingly, the present application is allowed. Justice P.K. Bhasin (Retd.) (Mobile No.9871300032) is appointed as a Sole Arbitrator to adjudicate upon the disputes between the parties, including their claims and counter claims. The arbitration shall take place under the aegis of the Delhi International Arbitration Centre (DAC). The fees of the learned Arbitrator will be in terms of the Delhi International Arbitration Centre Arbitration Proceedings (Arbitrators’

Fees) Rules. The parties shall be at liberty to file their claims/counter claims before the Arbitrator for adjudication, in accordance with law. Needless to state that this court has not expressed its opinion on the relative merits/ demerits of the case.

6. The application is disposed of.

A copy of this order shall be communicated forthwith to the learned Arbitrator and the Additional Co-ordinator, DAC for information.

CS(OS) 404/2015 & IA No. 3151/2015

In view of the orders passed in IA No.3992/2015, nothing survives for adjudication in the present suit, which is accordingly disposed of, along with pending application.

HIMA KOHLI, J

MAY 22, 2015
mk/ap