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

+ ARB.P. 141/2016

LOKESH KUMAR	 Petitioner
Through	Mr.Sudhir Talwar, Adv
versus	
BHARTI AIRTEL LTD.	 Respondent
Through	Ms Shweta Kapoor, Adv

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **12.07.2016**

1. The petitioner has filed the present petition seeking appointment of an Arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996. The petitioner entered into an agreement with the respondent on 30.01.2015, captioned as "License Agreement". The recital of the said Agreement indicates that the petitioner being an absolute owner of the property bearing no.210, Block-UU, Pitampura, New Delhi-110034, had permitted the respondent to install the necessary equipment, consisting of BTS (Base Transceiver) and Poles on the rooftop of the said premises to improve internet coverage of the services provided by the respondent. The term of the agreement was for a period of nine years from 06.02.2015 to 05.02.2024 and respondent had agreed to pay a sum of Rs.40,000/- (Rupees Forty Thousand Only) per month to the petitioner as monthly licence fee which was agreed to be increased by the rate of 10% after every three years.
2. The said agreement contained an Arbitration clause which reads as under:-

“In the event of any dispute or difference between the Parties to this Agreement in respect of or concerning or connected with the interpretation or implementation of this Agreement or arising out of this Agreement, such dispute or difference shall be referred to arbitration by a sole arbitrator to be appointed by the Both Parties. The arbitration shall be held in New Delhi, India. The decision of such arbitration shall be binding and conclusive upon the Parties and may be enforced in any court of competent jurisdiction.

This Agreement shall be governed by the laws in India and courts in Delhi shall have exclusive jurisdiction over matters relating to or arising from this Agreement.”

3. The petitioner asserts that on 02.02.2015, the respondent had installed two poles on the roof of the petitioner’s property. It is also asserted that on being called upon to do so, the petitioner had paid a sum of Rs.78,000/- to an employee of the respondent for securing all permissions and approvals for operating cellular towers at the said premises. It is the case of the petitioner that the respondent had failed to pay the monthly lease rent of Rs.40,000/- and this led the petitioner to cause a notice dated 08.07.2015 to be issued to the respondent calling upon the respondent to pay the outstanding lease rent of Rs.2,40,000/- plus interest at the rate of 18% p.a. in addition to Rs.78,000/- claimed to have been paid to an employee of the respondent.

4. The respondent responded to the aforesaid notice denying its liability to pay the rent under the Licence Agreement and further stated that the said agreement stood terminated with effect from 29.08.2015. Thereafter, the petitioner issued a notice dated 24.09.2015 suggesting that Sh. Nitin Ahlawat, Advocate be appointed as an Arbitrator to resolve the dispute that

had arisen between the parties.

5. It is contended that the petitioner received no response to the said notice and, therefore, was constrained to file the present petition.

6. The respondent entered appearance. At a hearing held on 25.04.2016, the parties were directed to appear before the Delhi High Court Mediation and Conciliation Centre for amicable settlement of their disputes. The learned counsel for the parties state that the parties have failed to resolve their disputes.

7. The learned counsel appearing for the respondent does not dispute the Arbitration clause in the Licence Agreement dated 30.01.2015. He further states that there is no objection to an Arbitrator be appointed. Accordingly, the petition is allowed and Mr Samrat Nigam, Advocate (Mobile No. 9810424476, Enrolment No. D53G/2000) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties including their claims and counter-claims.

8. The fees of the Arbitrator shall be in terms of the Schedule IV to the Arbitration and Conciliation Act, 1996.

9. Copy of the order be given *dasti* to the counsel for the parties under the signature of the Court Master. A copy of this order be also sent to the Arbitrator.

VIBHU BAKHRU, J

JULY 12, 2016
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