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

+ O.M.P. (T) (COMM.) 49/2016

KUMARAKRUPPA FRONTIER HOTELS PVT. LTD.

..... Petitioner

Through Mr.Roshan Kumar, Adv.

versus

THE BHARAT HOTELS LIMITED

..... Respondent

Through Mr.Darpan Wadhwa, Adv. with
Mr.Sandeep Das, Adv.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER

% **13.07.2016**

1. The petitioner has filed the present petition under Section 15(2) read with Section 14 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as "the Act") for the appointment of substitute arbitrator.
2. In Arb.A. 253/2014 Lease-cum-Management Agreement dated 29th November,2001 contained the following arbitration clause :-

"19. In the event of any dispute or difference between the parties hereto, the parties shall in the first Instance attempt to settle/ resolve such dispute or difference amicably by mutual consultation. In the event that the parties are unable to resolve the dispute within 30 days of the dispute or difference arising, then either party may refer the dispute for resolution to a sole arbitrator who shall be jointly appointed by both parties or, in the event that the parties are unable to agree on the person to act as the sole arbitrator within 30 days after any party has claimed for an arbitration in written form, by three arbitrators, one to be appointed by each party with power to the two arbitrators so

appointed, to appoint a third arbitrator. The arbitration shall be governed by the Arbitration and Conciliation Act, 1996 as amended or enacted from time to time. The arbitration proceedings shall be conducted in the English language and the arbitration shall be held in New Delhi."

3. By order dated 5th February, 2015 passed in Arb.A. 253/2014 Justice Reva Khetrapal, a former Judge of this Court, was appointed as the sole Arbitrator to adjudicate the disputes between the parties, including their claims and counter-claims under the aegis of Delhi International Arbitration Centre (DAC).

4. It is stated in the petition that earlier the said sole Arbitrator had entered into reference and the petitioner/claimant had filed its claim petition. The respondent too had filed its Statement of Defence along with an application under section 16 of the said Act (in which the respondent had more or less raised similar issues as were raised by it in its reply to the said arbitration application). The petitioner/claimant had duly filed its reply to the said application under Section 16 of the said Act, filed by the respondent.

5. As per communication dated 6th February, 2016 received from Delhi International Arbitration Centre (DAC) the sole Arbitrator has recused herself from the said arbitral proceedings.

6. Thus, in terms of Section 15(2) read with Section 14 of the Act, the present petition has now been filed to appoint a substitute sole Arbitrator on the same terms and conditions already passed pertaining to the earlier sole Arbitrator.

7. Issue notice. Counsel appearing on behalf of the respondent accepts notice and states that the respondent has no objection if the prayer made in the petition be allowed. Both parties agree that all the objections raised by any party would be considered by the sole Arbitrator as per its own merit who would continue the proceedings at the stage left by the earlier sole Arbitrator. The terms and conditions would remain the same. Ordered accordingly.

8. Accordingly, Justice S.B. Sinha, a former Judge of Supreme Court, D-361, Second Floor, Defence Colony, New Delhi, Mobile No. 9868219666, is appointed as substitute sole Arbitrator to adjudicate the disputes between the parties.

9. The petition is accordingly disposed of.

10. Copy of this order be given *dasti* to the learned counsel for the parties and a copy thereof be delivered to the learned Arbitrator.

MANMOHAN SINGH, J.

JULY 13, 2016/jk