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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 393/2016**
MAC DECOR LTD.

..... Petitioner

Through : Mr Harpreet Singh, Mr Rajesh Gupta,
& Mr Pranjal Saran, Advs

versus

AMAN HOSPITALITY PVT. LTD.

..... Respondent

Through : Mr Sumit Gahlawat, Adv

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **16.09.2016**

1. This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act') for appointment of an arbitrator.

2. The petitioner states that the respondent had appointed their architect, Mr Achal Kumar Kataria, as the arbitrator, which was objected to by the petitioner. The arbitrator so appointed had considered the objections and although he did not agree with the contentions advanced by the petitioner, he had, nonetheless, recused himself as arbitrator.

3. Thereafter, the respondent had taken steps to appoint another arbitrator in place of Mr Achal Kumar Kataria. It is stated that the resolution of Board of Directors of the respondent was passed on 21.06.2016 for effecting such appointment.

4. Thereafter, the petitioner had filed the present petition. There

is some controversy as to the date on which the petition was filed; the petitioner asserts the same was filed on 30.06.2016, however, the respondent states that website of this Court shows the date of filing of this petition as 08.07.2016. In this context, the petitioner has furnished a copy of the e-mail receipt confirming the date of filing of this petition as 30.06.2016.

5. On 08.07.2016, the respondent issued a letter appointing Shri Kuldeep Singh Arora, ADJ (Retd) as the sole arbitrator.

6. The learned counsel for the petitioner states that since the petition had been filed prior to the appointment of the arbitrator, the respondent had no right to appoint the arbitrator. There is also some controversy as to the issue whether the respondent has an exclusive right to appoint arbitrator, as is claimed by the respondent.

7. At this stage, the learned counsel for the respondent fairly states that the respondent would not have an objection, if an independent arbitrator is appointed.

8. In view of the above, without considering the controversies raised, it is directed that an arbitrator be appointed under the Rules of the Delhi International Arbitration Centre (DIAC). The representatives of the parties shall appear before the co-ordinator, DIAC on 30.09.2016 at 11:00 AM. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.

9. The petition stands disposed of in the above terms.

SEPTEMBER 16, 2016

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VIBHU BAKHRU, J