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

+ ARB.P. 546/2015

SANJAY KAPOOR

..... Petitioner

Through

Mr.Lalit Bhasi, Adv. with Mr.Sanjay
Gupta and Mr.Mudit Sharma, Adv.

versus

MIRCOMAX INFORMATICS LTD.

..... Respondent

Through

Mr.Ajit Warriar, Adv. with Mr.Aditya
Nayyar, Adv.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER

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13.05.2016

The present petition has been filed by the petitioner under Section 11 (5) of the Arbitration and Conciliation Act, 1996 for appointment of the sole Arbitrator for adjudication of disputes and differences arising from Senior Management Agreement dated 29th May, 2014 due to *inter alia* illegal and wrongful termination of employment of the petitioner by the respondent by its termination letter dated 10th July, 2015.

The petitioner says that as the respondent failed to agree to the nomination of the sole Arbitrator by the respondent despite of existence of any arbitrable dispute and invocation of the Arbitration Agreement by the petitioner by his letter dated 14th July, 2015.

Clause 9.9 of the Senior Management Agreement provides for the

resolution of disputes by way of arbitration. The said clause is reproduced herein below:

"9.9 The laws of India shall govern the Agreement. Disputes, if any, shall be resolved amicably falling which the same shall be referred to a single arbitrator in accordance with the procedure established by the Arbitration and Conciliation Act, 1996. The venue of arbitration shall be Delhi. The language of arbitration shall be English. In the event that either party needs to seek and obtain an injunctive remedy, they hereby consent to the exclusive jurisdiction of the Courts in Delhi, India."

The matter has been discussed in Court. Both the parties are agreeable that the sole Arbitrator be appointed by this Court instead of Arbitral Tribunal constituted earlier which was not agreeable to the respondent. Now both parties are agreeable to appoint any retired Judge of the Supreme Court instead of earlier nominated learned Arbitrator.

With the consent of the parties, the prayer made in the petition is allowed. Mr. Justice M.K.Sharma, Retired Judge of the Supreme Court of India (Mob. No.9818000190) is appointed as sole Arbitrator to adjudicate the disputes between the parties as mentioned in the present petition. The parties are also allowed to file their respective claims and counter-claims before the Arbitrator. Liberty is granted to the respondent to raise all the objections as per the terms and conditions of the agreement.

The Arbitrator shall ensure the compliance of the provisions of Arbitration and Conciliation (Amendment) Act, 2015 before commencing the arbitration.

The fees of the learned Arbitrator shall be in terms of the Schedule of the Act. The parties to appear before the learned Arbitrator on 7th June,

2016 at 4.00 p.m. for directions.

The petition is accordingly disposed of.

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

MAY 13, 2016/jk

MANMOHAN SINGH, J.