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

+ ARB.P. 153/2017

K.K. MARKETING

..... Petitioner

Through: Ms Richa Relhan, Adv.

versus

FUN FOODS PVT. LTD.& ANR.

..... Respondents

Through: Mr Madhur Dhingra, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **25.04.2017**

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996, (hereafter the 'Act') *inter alia*, praying that an arbitrator be appointed to adjudicate the disputes that have arisen between the parties in connection with the agreement dated 15.04.2006 entered into between the petitioner and Fun Foods Pvt. Ltd. The said agreement includes an arbitration clause, which is set out below:-

"If at any time any dispute, difference of question shall arise between the parties to this agreement it shall be referred to Single Arbitrator in case the parties agree upon one failing such agreement two arbitrators can be appointed by each party and in case of disagreement between the two arbitrators aforesaid and in so far and to the extent that they disagree, an umpire is to be appointed by the said two arbitrators before they enter upon reference. The arbitration proceedings shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 or any statutory amendments/ modifications thereof for the time being in force. The arbitration proceedings shall be held at Delhi."

2. The learned counsel appearing for the respondents does not dispute the existence of agreement. He further states that Fun Foods Pvt. Ltd now stands amalgamated with Dr. Oetker India Pvt. Ltd. (incorrectly referred to as Dr. Oekar India Pvt. Ltd. in the memo of parties).
3. The learned counsel for the parties further requests that instead of a tribunal of three members, a sole arbitrator may be appointed by this court.
4. In view of the above, with the consent of the parties, Mr Bharat Bhushan, ADJ (Retired) (Mobile No. 9899285640) is appointed as the sole arbitrator to adjudicate the disputes between the parties (the petitioner and respondent no.2). This is subject to the arbitrator making the necessary disclosure under Section 12(1) of the Act and not being ineligible under Section 12(5) of the Act. The arbitrator shall fix his fee in consultation with the learned counsel for the parties. The parties are at liberty to approach the arbitrator for eliciting necessary disclosure and for further proceedings.
5. The respondent no. 2 is at liberty to file the counter claim.
6. The petition is disposed of.

VIBHU BAKHRU, J

APRIL 25, 2017
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