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

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Judgment delivered on: 12.09.2017

+ ARB.P. 332/2017

LEO MULTICUISINE PVT. LTD.

..... Petitioner

versus

MOODS HOSPITALITY PVT. LTD.

..... Respondent

Advocates who appeared in this case:

For the Petitioner

:Mr. A. K. Pandey, Advocate

For the Respondents

: Mr. Aman Yadav, Advocate

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner has filed this petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act) seeking appointment of an arbitrator.

2. On 01.11.2010 a franchise agreement was entered into between the parties.

3. During the performance of the said agreement disputes between

the parties arose and leading to the petitioner invoking Arbitration Clause.

4. The Arbitration Clause under the heading “Settlement of Disputes” as contained in the franchise agreement dated 01.11.2010 reads as under:-

“N. Settlement of Disputes

59. *Any disputes, differences and /or claims arising out of this Agreement shall be settled by Arbitration, in accordance with the provisions of the Arbitrations and Conciliation Act, 1996 or any statutory amendment thereof and shall be referred to the three arbitrators, one each to be appointed by both the Parties and the third one to be appointed jointly by both the arbitrators.*

60. *Both parties shall bear their own expenses of arbitration and sitting fee of arbitrators. However, both the parties shall share the expenses of the above-mentioned third arbitrator equally.*

61. *The courts at New Delhi shall have the exclusive jurisdiction to entertain and try any disputes and / or claims arising out of or under this agreement or in any way relating to the same.”*

5. By Notice dated 17.09.2016, the petitioner invoked the Arbitration Clause and proposed his nominee Arbitrator. However, the

respondent has not concurred to appointment of the said arbitrator.

6. Learned counsel for the parties submits that since the claims are not substantial an independent sole arbitrator be appointed.

7. Accordingly, with consent of parties Mr. N.K. Gupta, Retd. District Judge, Mob. No.9910384632, is appointed as the sole independent arbitrator to adjudicate the disputes between the parties subject to the arbitrator making the necessary disclosures under Section 12 of the Act of not being ineligible under Section 12(5) of the Act.

8. The arbitrator shall adjudicate the claims of the petitioner and counter claims, if any, of the respondent.

9. The fee of the arbitrator will be fixed by the arbitrator in consultation with the advocates of both the parties.

10. Parties are at liberty to approach the Arbitrator for elucidating the necessary disclosures and for further proceedings.

11. Petition is allowed in the above terms.

12. A copy of the order be given *Dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

SEPTEMBER 12, 2017

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