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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 502/2017

IOT SPORTING ASPIRATIONS PVT. LTD.

..... Petitioner

Through : Mr.Jatin Mongia, Adv.

versus

SPORTICO VENTURES PVT. LTD.

..... Respondent

Through : None

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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25.10.2017

On 11.06.2014 a Memorandum of Understanding was signed and executed between the parties and the Petitioner had appointed the Respondent as an 'executing partner' to execute and operate IOT-Arsenal Soccer Schools on behalf of the Petitioner in the state of Kerala and granted the Respondent exclusivity in this regard. In consideration for the rights granted by the Petitioner, the Respondent was to pay the Petitioner certain fee and expenses under the following heads: a) Revenue Share; b) Regional License Fee; c) Centre Fee; d)Reimbursements for cost of setting up and operations not limited to coach fees, infrastructure, marketing, etc.

The respondent acting pursuant to the rights granted to it by the petitioner under the MOU, opened and operated two IOT-Arsenal

Soccer School Centres in Kerala during the period between June 2014 to May 2016.

The fee and expenses under various aforementioned heads payable by the Respondent to the Petitioner under the MoU was a sum of Rs. 55,89,405/- against which the Respondent paid only a sum of Rs. 23,04,419/- from time to time, thus leaving a shortfall of Rs.32,84,986/-. The Respondent failed to make the complete payments owed to the Petitioner under the MoU in a timely manner and kept requesting the Petitioner to grant accommodations from time to time, hence committed breach of MOU. Legal Notice dated 24.04.2017 was issued to the Respondent calling upon the Respondent to make the payment of the aforesaid outstanding sum of Rs.32,84,986/- alongwith interest@ 18% p.a. to the Petitioner but respondent failed to pay the amount.

Clause 3.8 of the MoU dated 11.06.2014 read as under :

3.8 This MOU shall be governed by and construed in accordance with the laws of India, and in case of any dispute between the Parties, the same shall be submitted before a sole arbitrator mutually appointed by the Parties. The arbitration proceedings shall be held at New Delhi, and be conducted in English or Hindi.

It is submitted that in terms of clause 3.8 the Petitioner invoked arbitration vide notice dated 19.06.2017 whereby the Respondent was requested to give its consent for the name of an Arbitrator, to be jointly appointed by the parties. The said notice was duly received by

the Respondent on 22.06.2017. On 05.07.2017 vide its reply the Respondent refused to consent to the arbitrator nominated by the Petitioner without assigning any reason for the same and has instead sought to appoint an Advocate practicing in the High Court of Kerala as an arbitrator. Since the arbitration is seated at New Delhi, the same is not acceptable to the Petitioner, hence, this petition.

The notice of the petition was served upon the respondent but he has chosen not to appear. In the circumstances, as the seat of arbitrator is in Delhi per clause 3.8 above, so the matter is referred to Delhi International Arbitration Centre, Delhi High Court for appointment of an arbitrator in the present case for the purpose of adjudicating the dispute between the parties.

The petition is disposed of.

YOGESH KHANNA, J

OCTOBER 25, 2017

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