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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 502/2015

ARYAVART HOSPITALITY

..... Petitioner

Through: Mr. Vijay Kasana, Mr. Prashant Khatana
Advocates.

versus

SAMSARA RESORT & CLUB CORBETT

..... Respondent

Through: Mr. Manoj Khanna and Mr. Rohit
Dhingra, Advocates.

CORAM: JUSTICE S.MURALIDHAR

ORDER

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16.01.2017

1. This is a petition under Section 11 of the Arbitration & Conciliation Act, 1996, seeking appointment of an Arbitrator to adjudicate the disputes arising out of an agreement dated 15th June 2013 which contains an arbitration clause.

2. It requires to be noticed that the petition has been filed by M/s Aryavart Hospitality through its sole Proprietor Mr. Pankit Doshi. However, the agreement in question was entered into between a partnership firm M/s Aryavart Hospitality with the Respondent. In seeking to explain this discrepancy, learned counsel for the Petitioner referred to a letter dated 12th June 2014, written by Mr. Vikas Sharma, who was the other partner of the firm to Mr. Pankit Doshi, stating that he wished to terminate the partnership from that date. The said letter further stated that Mr. Doshi would be solely

responsible for Aryavart Hospitality "as well as all its obligations/outstanding obligations from both before and after this dissolution". Following this, on 16th June 2014, Mr. Doshi wrote to the Respondent stating that the Respondent will have to rectify the contract "under the name of Aryavart Hospitality – a proprietary firm". It is seen that despite several reminders thereafter, the Respondent did not come forth to enter into any fresh agreement with the Petitioner as a proprietorship firm.

3. In that view of the matter, as at present, there is no arbitration agreement between the Petitioner as a sole proprietorship concern and the Respondent, pursuant to which the disputes can be referred to arbitration. The prayer for the appointment of an Arbitrator, made by the Petitioner as a proprietary concern cannot therefore be entertained. This, however, will not preclude the Petitioner from seeking any other remedy as may be available to it in accordance with law.

4. The petition is dismissed.

S.MURALIDHAR, J

JANUARY 16, 2017

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