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

+ ARB.P. 591/2017

S. P. ENTERPRISES

..... Petitioner

Through Mr.Yashvardhan and Ms.Kritika
Angirish, Adv.

versus

M/S SUPERMILK PRODUCTS PVT. LTD..... Respondent

Through Mr.Zeeshan hashmi and Mr.Salman
Hashmi, Advs.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **12.10.2017**

1. Present petition is filed under section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate the dispute between the parties. Some of the relevant facts are that the parties entered into a Franchisee Agreement on 19.12.2016 for the trademark 'KEVENTERS' in connection with the business of selling milkshake and similar products.

2. Learned counsel for the respondent has entered appearance. He points out that on 4.9.2017 that is prior to filing of the present petition the respondent who is the appointing authority under the arbitration agreement has appointed Shri RakeshSiddharth, Retired District Judge as the Sole Arbitrator to adjudicate the dispute between the parties. He submits that accordingly the present petition is infructuous.

3. There is no dispute that on 4.9.2017 i.e. prior to filing of this petition the respondents have appointed the Sole Arbitrator. The Arbitration clause which is clause 26 of the Agreement provides that the arbitration shall be at New Delhi and shall be conducted by a Sole Arbitrator to be appointed by the Franchisor/respondent.

4. Learned counsel for the petitioner, however, submits that this Court should appoint an independent Arbitrator as he submits that the petitioner had no meaningful opportunity to examine the terms and conditions of the Franchisee Agreement dated 19.12.2016 and he signed on the dotted line.

5. This plea is misplaced. No such plea was raised immediately after execution of the Agreement. Now, before this court this plea is being raised belatedly. The plea has no merits.

6. Accordingly, there is no merit in the present petition. Same is dismissed. However, this would be without prejudice to the rights and contentions of the parties to agitate their respective objections, as per law.

JAYANT NATH, J

OCTOBER 12, 2017

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