

\$~3

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

ARB.P. 596/2017

JASMOHAN & ORS.

..... Petitioners

Through : Mr.Mahendra Rana, Mr.Saurabh
Gupta and Mr.Punit yadav, Mr.Sumit
Bhadhana, Advocates.

versus

GURMIT SINGH & ORS.

..... Respondents

Through : Mr.Sanjay Goswami and
Mr.Abhishek Nath, Advocates for
respondent No.1.
Mr.Mandeep Singh Vинаик and
Ms.Anjali Sharma, Advocates for
respondents No.2 to 4.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

%

18.12.2017

This petition is under section 11(6) of the Arbitration and Conciliation Act 1996. The disputes relates to a partnership firm which came to be constituted on 01.01.1958 in the name of Indian Refrigeration Industries. The said partnership firm, admittedly, went into various changes and lastly on 15.02.1992 a partnership agreement was again entered into between Ms.Pamela Manmohan Singh and respondents No.1 to 4 in the ratio of 50%: 12.5%: 12.5%: 12.5%: 12.5%. The said partnership deed dated 15.02.1992 contained clause 16 for referring the disputes to arbitration. It runs as under:

“16. All disputes and questions of whatever

nature that may arise during the course of partnership business, regarding the rights and liabilities of the parties or construction or any of the clause of this agreement shall be referred to the arbitration of the sole arbitrator agreed upon by all the parties and his award shall be final and binding upon all of them. The provisions of the Arbitration Act shall be applicable. Shri Manmohan Singh, Managing Director of Frick India Ltd., shall be sole arbiter during his lifetime.”

The sole arbitrator Mr.Manmohan Singh unfortunately passed away on 02.07.1999. Smt.Pamela Manmohan Singh and her two sons then filed a civil suit No.2882/2013 which was disposed of on 02.09.2016 wherein a finding was arrived at viz. the plots No.7/15, 7/17 and 7/28 Kirti Nagar Industrial Area, New Delhi belong exclusively to IRI and the partners were the absolute owners of such property. It is alleged that taking advantage of physical inabilities of Smt.Pamela Manmohan Singh the respondents started dealing with the assets of the firm as their own and the business activities came to an halt in the year 2010. Smt.Pamela Manmohan Singh being oldest was ousted from all affairs of the firm, denied access and exposed to vast liabilities. On 22.04.2017 Smt.Pamela Manmohan Singh issued a notice invoking the arbitration per clause 16 of the partnership deed dated 15.02.1992 but no reply was received. Unfortunately Smt.Pamela Manmohan Singh passed away on 25.08.2017. On her passing away the partnership firm stood dissolved and thus disputes have arisen. The prayer is made to refer the disputes to the arbitration.

The plea of the respondents is since Mr.Justice S.N. Dhingra

(Retd.) is appointed as an administrator of the properties, he being aware of the facts of this case, be appointed as an arbitrator in this case.

Since the petitioners are not concurring to his appointment as an arbitrator, hence, in the circumstances Mr.Justice N.A. Kakru (Retd.) Mobile No.(7889489805 and 9419000938) is appointed as a sole arbitrator to arbitrate the dispute between the parties. The contention of the respondent no.1 that there exists no partnership deed dated 15.02.1992 and even the shares of the partners are different can well be looked into by the learned arbitrator before whom the respondents shall be at liberty to agitate their contentions. The fee of the learned Arbitrator shall be as per the fee Schedule of Delhi International Arbitration Centre.

The petition stands disposed of in terms of the above.

YOGESH KHANNA, J

DECEMBER 18, 2017

DV