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

+ ARB.P. 93/2018

AR AIRWAYS (P) LTD

..... Petitioner

Through: Ms. Sana Hashmi and Mr. Salman
Hashmi, Advs.

versus

JAIMESH THAPAR & ANR.

..... Respondents

Through: Mr. Nakul Mohta and Mr. Lalit
Mohan, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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16.03.2018

This petition under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed by the petitioner seeking appointment of a Sole Arbitrator for adjudicating of the disputes that have arisen between the parties in relation to an agreement dated 26.02.2014 for “Wet Lease” of Helicopter AS350BA Ecureuil Aircraft fitted with Air Conditioner (VT-MAB).

The agreement between the parties contains an Arbitration Agreement in form of Clause 12.27. Disputes having arisen between the parties, the petitioner invoked the arbitration agreement by way of its legal notice dated 26.04.2017. The respondent, in its reply, though did not deny the arbitration agreement, however, contending that the claim made by the petitioner is frivolous and is barred by Law of Limitation, did not consent to the arbitrator nominated by the

petitioner.

The counsel for the respondent submits that the parties may be referred to Delhi International Arbitration Centre (DIAC) for appointment of an arbitrator for adjudicating the disputes between the parties, however, as there is an issue of the claim being barred by Law of Limitation, the same be considered as a preliminary issue by the arbitrator. The learned counsel for the petitioner has no objection to the same if the parties are referred to the DIAC, however, she submits that the claims made by the petitioner are not barred by limitation.

Accordingly, parties are directed to appear before the DIAC on 04.04.2018 at 3 PM. DIAC shall appoint a Sole Arbitrator for adjudicating the disputes that have arisen between the parties. The arbitration fee shall be governed by the DIAC Rules. The arbitrator so appointed shall also be free to consider the issue of Limitation as a preliminary issue, if he deems it appropriate.

The petition is allowed in above terms, with no order as to costs.

Dasti.

NAVIN CHAWLA, J

MARCH 16, 2018

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