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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 398/2018

RIKHY ET FILS ASSOCIATES PVT. LTD. Petitioner

Through: Ms.Maldeep Sidhu, Adv.

versus

MAYAR HEALTH RESORTS LTD.

..... Respondent

Through: Ms.Aakanksha Kaul, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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29.08.2018

This petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner seeking appointment of an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the 'Licence Agreement Deed of Consultancy Management Operations' dated 28th December, 2006 executed between the parties.

The said Agreement contains an Arbitration Agreement in form of clause 46 thereof, which is reproduced hereinbelow:

“46. This Agreement shall be governed by the laws of India and the Courts at Delhi, New Delhi shall have exclusive jurisdiction to try or entertain any dispute between the Parties hereto including Arbitration proceedings. That any disputes or differences arising out of or in connection with the present Agreement Deed including any dispute relating to the interpretation of this Agreement Deed shall be referred to arbitration to be conducted by a Sole Arbitrator in accordance with the provisions of The Arbitration and Conciliation Act, 1996. The Arbitration proceedings shall be conducted at New

Delhi and the award of the Arbitrator Senior Advocate Mr.Ashok Bhasin shall be final and binding upon the parties. The appointment of the Arbitrator if needed under any circumstances will be at the sole discretion of the PARTY OF THE FIRST PART.”

Certain disputes had arisen between the parties which were referred to arbitration by order dated 8th January, 2015 passed by this Court in Arbitration Petition No.531/2013. During the pendency of those arbitration proceedings further disputes have arisen between the parties and the petitioner has filed the present petition seeking reference of those disputes to arbitration.

Counsel for the respondent submits that the petitioner has not given any notice under Section 21 of the Act before filing of the present petition and, therefore, the present petition is not maintainable. However, without prejudice to her contentions, the respondent has no objection if disputes are referred to the same Arbitrator and it is left open to the Arbitrator to decide whether this reference should proceed along with the earlier reference or separately.

In view of the submission of the counsel for the respondent and as the existence of Arbitration Agreement is not in dispute, the parties are referred to arbitration.

Mr.Padam Kant Saxena, retired Additional District Judge, Flat No.261, Royal Residency, Plot No.5, Sector-9, Dwarka, New Delhi-110077 (Mobile-9910384668) is appointed as a Sole Arbitrator to adjudicate the disputes that have arisen between the parties in relation

to the above mentioned Agreement. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC). The arbitration and the fees would be governed by the DIAC Rules.

It shall be open to the Arbitrator to decide whether the two references can proceed together so as to avoid any conflict of opinion in the two.

The petition is disposed of with the above directions, with no order as to costs.

NAVIN CHAWLA, J

AUGUST 29, 2018

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