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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 387/2018

MS. AFSHAN JAPANWALA IQBAL & ANR.

..... Petitioners

Through Mr. Gaurav Duggal, Adv.

versus

M/S. GILLI INDIA LTD.

..... Respondent

Through None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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13.12.2018

1 This is a petition under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (in short '1996 Act').

2 Notice in this petition was issued on 23.05.2018. The record shows that the respondent company has been served, *albeit*, via publication. As a matter of fact, on 26.11.2018, on an application for early hearing being moved by the petitioners, the date of hearing was advanced to today.

3 The assertions made by the petitioners are, broadly, to the following effect:

4 The petitioners, it appears, have acquired rights in the subject property situate at House No.58, Janpath, New Delhi pursuant to a Will being executed by late Sheikh Haji Mohammad Suleman Japanwala. The petitioners claim that late Sheikh Haji Mohammad Suleman Japanwala passed away on 17.02.2001 bequeathing the

subject property in favour of the petitioners.

5 It is averred that the petitioners executed a Registered Lease Deed dated 27.04.2015 with respect to the first floor of the superstructure built on the subject property (hereafter referred to as 'leased premises'). It is the case of the petitioners that the respondent company was irregular in payment of rentals fixed as per the aforementioned Registered Lease Deed. According to the petitioners, for the year 2015-2016, a sum of Rs.30,646/- is payable by the respondent company and likewise, for the period spanning between 01.04.2016 and 31.03.2017, the respondent company is required to pay a sum of Rs.41,64,753/-.

5.1 Furthermore, the petitioners claim that after 01.04.2017, the respondent company has not paid the rentals qua the leased premises.

6 It is in this circumstance that the petitioners aver that a notice dated 22.02.2018 was served on the respondent company. Via this notice, the lease deed was terminated and a demand was raised for payment of an aggregate sum amounting to Rs.95,49,473/-.

6.1 It is the petitioners' case that in and about March, 2018, they visited the leased premises and found that the same was locked.

7 Consequent thereto, a petition under Section 9 of the 1996 Act i.e. O.M.P. (I) (COMM) No.128/2018, was moved in this Court. In this petition, the petitioners, *inter alia*, sought appointment of a Local Commissioner with the authority to break open the locks put on the leased premises.

7 Given these circumstances, learned counsel for the petitioners says that in order to complete the process, the instant petition for appointment of an Arbitrator has been moved.

8 Having regard to the fact that the respondent company has chosen not to appear, I am inclined to allow the prayer made in the petition.

8.1 I must also note that Mr. Duggal says that he has no difficulty if this Court were to appoint a neutral Arbitrator.

9 Accordingly, Mr. Kartar Singh Khurana, former Additional District Judge (Mob. 9810257327), is appointed as an Arbitrator in the matter. Learned Arbitrator before entering upon reference would make requisite declaration under Section 12 read with the attendant provisions of the 1996 Act. Learned Arbitrator will issue notice before entering upon reference. Learned Arbitrator will be paid his fee in accordance with the provisions of the Fourth Schedule appended to the 1996 Act.

10 The petition is disposed of in the above terms.

11 *Dasti.*

RAJIV SHAKDHER, J

DECEMBER 13, 2018

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