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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 672/2018

HPMC CORPORATION LIMITED & ANR. Petitioners

Through: Mr.Satish Mishra, Adv.

versus

DDU HOSPITAL

..... Respondent

Through: Mr.Santosh Tripathi, ASC with
Mr.Rishabh Ostwal and Mr.Shashank
Tiwari, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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11.10.2018

1. This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') by the petitioners seeking appointment of a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Licence Deed Agreement dated 01.01.2010. The said Agreement contains an Arbitration Agreement in form of Clause 10 thereof, which is reproduced hereinbelow:

“10. All disputes and differences arising out of or in any way touching or concerning this agreement (except these the decision whereof otherwise herein before provided for) shall be referred to the sole arbitration of any person nominated by the Lt. Governor, Delhi or in case his designation in charges or his office is abolished to the sole arbitration of any person nominated by the officer, who for the time being is entrusted, whether or not in addition to other functions, with the functions of the Lt. Governor of Delhi by whatever designation

such officer may be called. It will be no objection to any such appointment that the Arbitrator so appointed is a Government Servant, that he had to deal with the matter to which this relates and that in the course of his duties as such Government Servant, he had expressed views on all or any of the matters in dispute or difference. The award of the arbitrator so appointed shall be final and binding on the parties.”

2. The disputes having arisen between the parties, the petitioners filed a Civil Suit bearing Suit No.10731/2016 (renumbered) before the Court of Administrative Civil Judge, Tis Hazari Courts, Delhi. In the said suit the respondent took a plea under Section 8 of the Act. The same was allowed by the Administrative Civil Judge vide order dated 24.05.2018.
3. The petitioners thereafter requested the Hon'ble Lt. Governor for appointment of an Arbitrator vide letter dated 21.06.2018/12.07.2018. Having failed to receive any response, the petitioners sent another request to the Hon'ble Lt. Governor vide letter dated 16.08.2018. As again no response was received, the present petition was filed.
4. Learned counsel for the respondent submits that the respondent does not deny the existence of the Arbitration Agreement and due invocation thereof by the petitioner. In fact, the respondent has also vide letter dated 08.10.2018 requested the Hon'ble Lt. Governor to appoint an Arbitrator and the response is awaited.
5. As the existence of the Arbitration Agreement and due invocation thereof by the petitioner is not denied by the respondent, I do not find any impediment in appointing a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Licence Deed Agreement.

6. With the consent of the parties, the parties are referred to the Delhi International Arbitration Centre (DIAC) who shall appoint a Sole Arbitrator. Parties are directed to appear before the DIAC on 1st November, 2018 at 2.00 p.m.

7. The arbitration and fee shall be governed by the DIAC rules.

8. The petition is disposed of with the above direction, with no order as to cost.

Dasti.

NAVIN CHAWLA, J

OCTOBER 11, 2018/Arya