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

+ ARB.P. 877/2018

DHARAMPAL SATYAPAL LIMITED Petitioner
Through: Mr.Aastik Dhingra, proxy counsel

versus

SAMPRE NUTRITIONS LIMITED Respondent
Through: Mr.Vivek Sood, Senior Advocate
with Mr.Anurag Bhatt, Advocate

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
21.12.2018

1. The petitioner is seeking the appointment of an arbitrator under Section 11 of the Arbitration and Conciliation Act.
2. The arbitration agreement between the parties is contained in Clause 16 of the agreement dated 13th June, 2017 which is reproduced hereunder:

“16) DISPUTE RESOLUTION AND JURISDICTION

- a) Any disputes, differences or whatsoever arising out of or in connection with this Agreement, shall be mutually resolved with discussion and representation from either Party. If the matter is still not resolved then it shall be referred to arbitration under and in accordance with the Arbitration and Conciliation Act, 1996 and any amendments thereto. The language of arbitration shall be English. The seat and venue of arbitration shall be exclusively at New Delhi, India.*
 - b) The competent courts of New Delhi shall have the exclusive jurisdiction to try and decide on matters relating to such dispute(s) under this Agreement.”*
3. The petitioner invoked the arbitration vide legal notice dated 14th August, 2018. The petitioner suggested the name of a retired Judge of Delhi

High Court as an arbitrator. The respondent replied to the notice on 22nd August, 2018 by denying the petitioner's claims.

4. The respondent does not dispute the existence of the arbitration agreement. However, the respondent has objections relating to the arbitrability of the disputes. Under Section 11 (6A) of the Arbitration and Conciliation Act, this Court has to confine to the examination of the existence of the arbitration agreement. The respondent is at likely to urge these contentions before the arbitrator.

5. The petition is allowed and Justice Dipak Misra, Former Chief Justice of India is appointed as a sole arbitrator to adjudicate the claims and counter claims between the parties.

6. The learned arbitrator shall ensure the compliance of Section 12 of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

7. The fees of the arbitrator shall be according to Fourth Schedule of the Arbitration and Conciliation Act, 1996.

8. Copy of this order be sent to the learned Arbitrator.

9. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

J.R. MIDHA, J.

DECEMBER 21, 2018
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