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

+ **ARB.P. 781/2017**

VISHKARMA BUS SERVICE PVT. LTD. Petitioner

Through: Mr Deo Prakash Sharma and Mr
Umesh Kumar Gupta, Advocates.

versus

SATKAR TERMINALS PVT. LTD. & ANR. Respondents

Through: Mr Siddhartha Yadav and Mr Sushant
Kumar, Advocates for R-1 alongwith
Mr Ravinder Singh, AR of R-1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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06.03.2018

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that an Arbitrator be appointed to resolve the disputes that have arisen between the parties in relation to a Lease Deed dated 01.06.2014. The petitioner and respondent no. 1 had entered into the Lease Deed in respect of property bearing no. Khasra No. 2613/735-736, total measuring approximately 3 Bigha 5 Biswa (1 Acres) situated in Lal Kaun village Tuglakabad, M.B road, Delhi along with site office and other superstructures constructed thereon and also known as Vishkarma Bus Service (hereafter "the said property")

2. The said Lease Deed includes an arbitration clause, which is set out below:-

“(m) Dispute Resolution. Any dispute or difference out of or in connection with this Lease Agreement, shall be

promptly and in good faith be negotiated among both the parties with a view to its amicable resolution and settlement. In the event no amicable resolution or settlement within a period of sixty (60) days from the date on which the dispute or difference arose, such disputes and/or differences shall be referred to a mutually acceptable sole arbitrator. Upon failure to agree upon a sole arbitrator within a period of twenty (20) days, any party may approach the Hon'ble Chief Justice of the High Court of Delhi for appointment of sole arbitrator in accordance with the Arbitration and Conciliation Act, 1996 as may be amended, modified or reenacted from time to time (the "Arbitration Act"). The arbitration proceedings shall be held in New/Delhi in English and in accordance with the Arbitration Act. Subject to this arbitration clause, the Courts in Delhi alone shall have exclusive jurisdiction with respect to this Agreement."

3. The petitioner also invoked the arbitration clause by a letter dated 12.09.2017. It is seen that the said notice was addressed to both the respondents. The learned counsel appearing for the petitioner states that although respondent no.2 is not a party to the Lease Deed, nonetheless, it would be bound by the arbitration agreement as respondent no.2 is an associate of respondent no.1 and has also availed the benefits of the property leased to respondent no.1. He also drew the attention of this Court to Clause 7 of the Lease Deed, which expressly provides that the petitioner would not object to the use of the premises in question by any associate, agents, affiliate concerns, and/or companies related to "Satkar Group of Companies". The learned counsel appearing for the petitioner states that by virtue of the aforesaid clause, respondent no.2 would also be bound by the arbitration agreement. He further submits that the expression "Lessee" as included in the Lease Deed would also includes associates of respondent

no.1.

4. There is no dispute as to the existence of an arbitration agreement between the petitioner and respondent no.1. However, it is also clear that there is no arbitration agreement between the petitioner and respondent no.2. The fact that the petitioner had agreed with respondent no.1 not to object to the use of the property in question by any of the associates of respondent no.1, would not result in such third parties being bound by the arbitration agreement entered into between the petitioner and respondent no.1. The contention that the expression “lessee” as used in the Lease Deed includes associates of respondent no.1 is also erroneous.

5. Since there is no dispute as to the existence of the arbitration agreement between the petitioner and respondent no.1, the Arbitral Tribunal is required to be constituted for adjudication of the disputes between those parties.

6. With the consent of the petitioner and respondent no.1, it is directed that a sole arbitrator be appointed by the Delhi International Arbitration Centre (DIAC) to adjudicate the disputes that have arisen between the said parties. The said parties (petitioner and respondent no.1) are directed to appear before the Co-ordinator, DIAC on 20.03.2018 at 11:00 AM. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.

7. The petition is disposed of.

VIBHU BAKHRU, J

MARCH 06, 2018/MK