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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION PETITION NO.30 OF 2019

Ihop Hospitality Management
Private Limited

..Petitioner

Vs.

Sanjivani Motels & Hotels Pvt. Ltd.

..Respondent

Ms.Krishna Baruch with Ms.Vrushali Pokharia i/b.Pragnya Legal for
Petitioner.

Mr.Hemant Prabhulkar for Respondent.

CORAM : G.S. KULKARNI, J.

DATE : 18th OCTOBER, 2019

P.C.:

Heard learned Counsel for the parties.

2. This is a petition filed under Section 11 read with Sections 14 and 15 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) whereby the petitioner has prayed for termination of the mandate of the learned sole arbitrator and for appointment of a substitute arbitrator with a further prayer that the substitute arbitrator be directed to enter reference and commence the arbitral proceedings.

3. Learned Counsel for the respondent on instructions would submit that the respondent would not have any objection for the mandate of the existing sole arbitrator for being terminated.

4. As there is consent between the parties for termination of the mandate and for appointment of a substitute arbitrator, it would be

appropriate that the petition is allowed by appointing a substitute arbitrator. The parties will accordingly inform the learned sole arbitrator earlier appointed, of the termination of his mandate. However, this cannot be unconditional. It has to be subject to the parties clearing fees and more particularly the petitioner who appears to have not paid the fees as payable to the learned sole arbitrator who was earlier appointed (Mr.Debrabrata Ray Chaudhuri).

5. In the above circumstances the petition is being disposed of by the following order:-

ORDER

(i) By consent of the parties, the mandate of the learned sole arbitrator Mr.Debrabrata Ray Chaudhuri stands terminated, however subject to payment of the outstanding fees payable by the petitioner as also if any, payable by the respondents. This exercise be done within two weeks from today.

(ii) Mr.Dilipkumar Dubalaji Deshmukh, Retired District & Sessions Judge, is appointed as a substitute Arbitrator to adjudicate the disputes and differences between the parties as arisen under the Conducting Agreement dated 25 March, 2013;

(iii) The learned substitute arbitrator, fifteen days before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Registrar, to be placed on record of this petition with a copy to be forwarded to both the parties.

(iv) The Arbitral proceedings shall commence from the stage the proceedings had reached before the erstwhile arbitral tribunal.

(v) At the first instance, the parties shall appear before the prospective arbitrator within 20 days from today on a date which may

be mutually fixed by the prospective sole arbitrator;

(vi) It is agreed between the parties that the venue of the arbitral proceedings shall be at Nasik.

(vii) All contentions of the parties on merits of the disputes are expressly kept open;

(viii) The fees payable to the arbitral tribunal shall be in accordance with the Bombay High Court (Fee Payable to the Arbitrators) Rules, 2018;

(ix) The petition is disposed of in the above terms. No costs.

(x) Office to forward a copy of this order to the learned Arbitrator at the following address:-

“Deshmukh Nivas, Behind S.B.I. Old Agra Road, Nashik
Mobile No. 9892227199.”

[G.S. KULKARNI, J.]