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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMMERCIAL ARBITRATION PETITION NO.1182 OF 2018

Skylimit Weight Loss and Pain

Centre LLC and anr

... Petitioner

V/s.

SBM Healthcare Centre and anr

... Respondent

Ms. Jennifer Michael, a/w Mr. Animesh Singh, i/by Dhiren
H. Shah, for the Petitioner.

Tanna Maulik Kirti, for respondent Nos. 1 & 2.

CORAM : G. S. KULKARNI, J.

DATE : 11th June 2019.

P.C. :

1] Heard learned counsel for the parties.

2] By this petition filed under section 9 of the Arbitration and Conciliation Act, 1996 (for short, "ACA"), the petitioner has prayed for interim reliefs pending arbitral proceedings.

3] Learned counsel for the petitioner submits that this Court (S.J. Kathawala, J), by order dated 2nd July, 2018 had appointed an arbitrator in Commercial Arbitration Petition (L) No.656 of 2018. But subsequently the learned sole arbitrator resigned.

4] Learned counsel for both parties submit that disputes and differences as arisen between the parties under Memorandum of Settlement dated 25th

January, 2017 and Master Franchise Agreement dated 11th April, 2017 be referred to the arbitration by appointing a sole substitute arbitrator.

4] It is also agreeable for the learned counsel for the parties that the petitioner would move Section 17 Application before the arbitral tribunal seeking reliefs as prayed in this application.

5] In view of the consensus between the parties, petition is disposed of by following order:-

Order

i] Ms Deepti Panda, Advocate of this Court, is appointed as the prospective substitute arbitrator to adjudicate the disputes and differences between the parties, arising under the Memorandum of Settlement dated 25th January, 2017 and Master Franchise Agreement dated 11th April, 2017;

ii] The prospective substitute arbitrator, ten days before entering the arbitration reference, shall forward a statement of disclosure as per the provisions of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of these applications with a copy to be forwarded to both the parties;

iii) At the first instance, the parties shall appear before the prospective arbitrator within 10 days from today at a date and time as may be fixed by the prospective arbitrator;

iv] The petitioner is at liberty to file Application under Section 17

of the ACA seeking appropriate reliefs before the arbitral tribunal ;

v] The learned sole arbitrator shall endeavour to publish an award as expeditiously as possible and within the time limit as prescribed under Section 29-A of the Act;

vi) All contentions of the parties on merits of the matter are expressly kept open;

vii] The fees of the arbitral tribunal shall be governed in accordance with the fees prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018;

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

6]. Office to forward a copy of this order to the learned Arbitrator on the following address:-

123, 3rd floor, 24-B Rajabahadu Mansion
Ambalal Doshi Marg,
Fort, Mumbai 400 001.

Contact No.022 49721742.

[G. S. KULKARNI, J]