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

+ **ARB.P. 208/2019**

M/S HOTEL COMBERMERE SHIMLA Petitioner

Through: Mr. H.L. Raina, Advocate

versus

CHEMSFORD CLUB LTD Respondent

Through: Ms. Dezygaur and Mr. Ravinder,
Advocates

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **09.05.2019**

1. The present petition under Section 11(5) of the Act, seeks appointment of an Arbitrator.

2. Learned counsel for the Respondent, does not dispute the existence of the arbitration agreement. The legal notice dated 22nd January, 2019 issued by the Petitioner invoking arbitration is also not in dispute, as the said notice was replied to by the Respondent vide reply dated 28th January, 2019. A perusal of the notice and the reply clearly shows that disputes and differences have arisen between the parties.

3. The arbitration clause as contained in the agreement dated 21st March, 2016 reads as under:-

“39. In the event of dispute and difference arising between the

parties emerging cost of this Agreement as enter here as amended from time to time or any other allied matter, the same shall be referred to Management Committee of the Club who shall be the sole Arbitrator and its decision shall be final and binding.”

The aforesaid clause provides that in the event of disputes and differences arising between the parties, the same shall be referred to the Management Committee of the club. This clause would also be in conflict with Section 12(5) of the Act read with Schedule VII of the Act. Therefore, the clause cannot be given effect to.

4. Both the learned counsels on instruction state that they have no objection in case the arbitration is carried out under the aegis of Delhi International Arbitration Centre.

5. Thus, for the reasons stated above with the consent of the parties, it is directed that an Arbitrator be appointed under the Rules of the DIAC. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.

6. Learned counsels for the parties submit that having regard to the fact that the amount involved in dispute is merely Rs. 8 Lakh, they wish to explore a possibility of a settlement. Accordingly at the first instance, the parties shall appear before the Delhi High Court Mediation Centre for exploring the possibility of settlement. The parties are directed to appear before the Delhi High Court Mediation Centre on 16th May 2019 at 02:30 p.m. In the event a settlement is arrived at between the parties, the Arbitrator shall not enter

upon reference. The Registry will dispatch a copy of the order passed today to the Coordinator, DIAC.

7. The petition is allowed, in the above terms.

MAY 09, 2019/rr

SANJEEV NARULA, J