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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 05.09.2019

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ARB.P. 458/2019

CASA2STAYS PRIVATE LIMITED

.... Petitioner

Through: Mr. Madhav Nanda and Mr. Lakshay
Sawhney, Advocates

versus

VINOD CHANDRAPRASAD SHUKLA SOLE PROPRIETOR

BLUE INN RESIDENCE

..... Respondent

Through: None

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

JYOTI SINGH, J. (ORAL)

1. This is a petition under Section 11(4) read with Section 11(6) of the Arbitration and Conciliation Act, 1996 ('the Act') praying for appointment of a Sole Arbitrator to adjudicate the disputes between the parties.

2. On 22.07.2019, this Court had issued notice to the respondent to be served through speed post and courier, returnable on 22.08.2019. On 22.08.2019, counsel for the petitioner had submitted that the respondent had been duly served and an affidavit of service had been filed. The affidavit was, however, not on record and the matter was listed for 05.09.2019.

3. The affidavit of service has been placed on record by the learned counsel for the petitioner. The tracking report annexed to the affidavit, shows that notice sent through speed post has been delivered to the respondent on 19.08.2019. The matter was passed over three

times today, but there has been no appearance on behalf of the respondent.

4. The disputes and differences have arisen between the parties with respect to a Franchise Agreement dated 16.07.2018, executed between the parties. The Agreement contains an Arbitration Agreement in the form of clause 15 thereof, which reproduced below:

15.1. "The Parties shall initially attempt to resolve all disputes pertaining to this agreement by negotiation between senior business representatives who are at a higher level of management than the persons with direct responsibility for administration of the Agreement and who have authority to settle the dispute, and (if they so desire) counsel. If within a period of 30 (thirty) days of the dispute arising, the Parties are unable to resolve the same, the dispute shall be referred to Arbitration in accordance with Clause 15.2 for settlement."

15.2. "Arbitration shall be conducted under the Arbitration and Conciliation Act, 1996, in accordance with the Arbitration Rules of the Singapore International Arbitration Centre. The Arbitral Tribunal shall consist of 3 (three) arbitrators, out of which, each Party shall have Right to appoint 1 (one) arbitrator each and the arbitrators so appointed by each Party, shall jointly appoint the third arbitrator. The venue shall be New Delhi and the language used in the arbitral proceeding shall be English."

5. Clause 15.2 states that the venue of the Arbitration shall be New Delhi. Disputes having arisen between the parties, the petitioner invoked the Arbitration Agreement, by sending a notice dated

18.01.2019, calling upon the respondent to nominate its Arbitrator and nominating an advocate as one of the Arbitrators on behalf of the petitioner.

6. Having received no response from the respondent within the prescribed period of 30 days, the petitioner has filed the present petition.

7. As the respondent has chosen not to appear despite service of notice of this Court, the existence of the Arbitration Agreement and its invocation remains uncontested.

8. I, therefore, see no impediment in appointing a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the above-mentioned Agreement.

9. I accordingly appoint Ms. Monika Arora, Advocate (Add: B-100, first Floor, Shivalik, Malviya Nagar, New Delhi-110017, Mob: 9810246300) as a Sole Arbitrator. The Arbitrator shall give disclosure under Section 12 of the Act before entering into reference. The fee of the Arbitrator shall be fixed as per the Fourth Schedule of the Act.

10. The petition is allowed in the above terms, with no orders as to costs.

11. A copy of this order will be dispatched to the Arbitrator.

JYOTI SINGH, J

SEPTEMBER 05, 2019

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