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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 684/2018

MR NITIN MAHENSHWARI

..... Petitioner

Through: Mr. Utkarsh Srivastava, Adv
versus

ONE97 COMMUNICATIONS LTD.

..... Respondent

Through: Mr. Rohit Jain with Mr. Gaurav Jain,
Adv

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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30.01.2019

1. Notice in this petition was issued on 23.10.2018.
2. Mr. Rohit Jain, who enters appearance on behalf of the respondent, says that he has already filed a reply.
3. The record shows that the reply of the respondent is before the Court.
4. A preliminary objection has been taken by counsel for the respondent which is that as per arbitration agreement obtaining between the parties, the Arbitrator should be mutually appointed by Aircel and the respondent, i.e., ONE97 COMMUNICATIONS LTD.
5. According to counsel for the respondent, the invocation of the arbitration agreement has taken place only *vis-a-vis* respondent.
6. In other words, learned counsel submits that no notice has been issued calling upon Aircel to appoint an Arbitrator in the matter.

7. Mr. Utkarsh Srivastava, who, appears for the petitioner says that though notice was issued to Aircel, the same has not been placed on record.
8. I find that the petitioner has not arrayed Aircel as a party to the present proceedings.
9. The arbitration clause clearly says that the arbitrator has to be appointed mutually by Aircel and the respondent i.e. ONE97 COMMUNICATIONS LTD.
10. Being faced with this situation, counsel for the petitioner seeks permission to withdraw the captioned petition and approach the Court after requisite steps have been taken.
11. The petition is, accordingly dismissed, as withdrawn, with liberty as prayed for.

RAJIV SHAKDHER, J

JANUARY 30, 2019

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