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

+ O.M.P.(I) (COMM.) 433/2019 & IA. 18430/2019

M/S ALISHA ENTERPRISES PVT. LTD Petitioner
Through: Ms. Shyel Trehan and Mr. Aman
Shukla, Advs.

versus

SH. GOVERDHAN SINGH Respondent
Through: Mr. Anand Yadav and Ms. Anita
Tomar, Advs.

AND

+ ARB.P. 867/2019

M/S ALISHA ENTERPRISES PVT. Petitioner
Through: Ms. Shyel Trehan and Mr. Aman
Shukla, Advs.

versus

SH. GOVERDHAN SINGH & ANR. Respondents
Through: Mr. Anand Yadav and Ms. Anita
Tomar, Advs. for R1.
Mr. Pradyuman Rao, Adv. for R2.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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24.02.2020

1. Learned counsel for the parties states that both the petitions can be disposed of by referring the matter to Arbitration to be conducted by Justice M.A. Khan, a retired Judge of this court, who is already conducting an arbitration proceedings between the same parties on a reference made earlier.
2. A petition being OMP(I)(COMM) 433/2019 under Section 9 of the Arbitration and Conciliation, 1996 has been filed by the petitioner *inter alia*

seeking the following prayers:

“It is, therefore, most respectfully prayed that in the facts and circumstances of the present case, this Hon 'ble Court may be pleased to:

a. Extend the protection already granted to the Petitioner vide Orders dated 09.01.2013 and 25.04.2014 passed in OMP No. 15/2013 and OMP No. 136/2013 from 01.12.2019 till the completion of the proceedings before the arbitrator; and/or

b. Prohibit/ restrain the Respondent and his agents from obstructing the Petitioner and/ or its agents from enjoying peaceful possession of the said Property; and

c. Restrain the Respondent and his agents from physically obstructing conduct of business of the Petitioner; and

d. Direct the Respondent and his agents to desist from issuing communications/ letters/ notices issued to the local authorities including the Municipal Corporation of Delhi, Delhi Police, Fire Department and Excise Department objecting to the grant of all such licenses required for the conduct of a restaurant in the Premises; and

e. Pass any such orders as this Hon 'ble Court may deem fit and proper in the facts and circumstances of the present case.

3. In substance, the grievance of the petitioner is that respondents Goverdhan Singh and Amit Singh Gouchwal could not have denied the petitioner the extension of the lease beyond November 30, 2019. Mr. Anand Yadav, learned counsel appearing for respondent no.1 Goverdhan Singh and Mr. Pradyuman Rao, learned counsel appearing for respondent no.2 Amit Singh Gochhwal states that there are various reasons for the respondents not to extend the lease beyond the period of November 30, 2019 which also include that the petitioner has demolished the wall which separates the property of both respondents with a third party. In other words, the extension can be granted of the property of the respondents individually and

not as an amalgamated property.

4. As the counsel for the parties state that the parties be referred to the process of arbitration to be conducted by Justice M.A. Khan, a retired Judge of this court, I refer the parties to the arbitration to be conducted by Justice M.A. Khan (Retd.). This reference shall be treated as a fresh reference and should not be linked with the earlier proceedings which are pending before Justice M.A. Khan (Retd.).

5. During the course of hearing, Mr. Anand has raised an issue of payment of user and occupation charges by the petitioner. Liberty is with the respondents herein to make such a claim in an application under Section 17 of the Arbitration and Conciliation Act, 1996 which shall be considered and decided by the learned Arbitrator without being influenced by any observations made in these proceedings.

6. Liberty is also with the parties to seek continuance / variation / vacation of the statement made by the respondent no.1 in these proceedings before the Ld. Arbitrator. It is made clear that the statement made by respondent no.1 shall continue till application (s), if any, to be filed by the party (ies) before the learned Arbitrator is decided by the learned Arbitrator.

7. Petitions stand disposed of.

Dasti.

V. KAMESWAR RAO, J

FEBRUARY 24, 2020/jg