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

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Date of decision: 17.12.2021

+ ARB.P. 895/2021

KUSHALPOLYSACKS PRIVATE LIMITED

THROUGH AUTHORIZED REPRESENTATIVE Petitioner

Through Mr. Rana S Biswas & Mr.Sunil
Sharma, Advs.

versus

**MY PREFERRED TRANSFORMATION
HOSPITALITY PRIVATE LIMITED**

..... Respondent

Through Ms.Shalini Sati Prasad & Ms.Meher
Tandon, Advs.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (oral)

1. Present petition has been filed under Sections 11(5) & (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of arbitrator to adjudicate the disputes between the parties.
2. Pertinently, petitioner is an absolute owner of the land, comprising of ground floor plus four storied building constructed thereon, located at Mouza-Raigachi, J.L. No.12, P.S. Rajarhat, Kolkata-700135.
3. According to the petitioner, respondent approached the petitioner for

allowing them to use the property mentioned above to run a hotel under the brand name of “*OYO HOTELS*” or “*OYO TOWNHOUSE*”. A meeting was held between the parties wherein respondent proposed that the petitioner would be required to pay to respondent Rs.38,50,000/- on account of fittings fixtures, decorative items as per standard of OYO apart from payment of Rs.8,50,000/- towards design consultancy. Upon such payment, respondent would enter into a lease agreement and shall pay a sum of Rs.8,85,000/- per month once the business commences. It was agreed that parties would bear the cost of registration and a lock-in-period of 7 years.

4. Besides, petitioner also claims to have handed over all the relevant documents pertaining the title of the petitioner on the said property, so that the respondent can satisfy the title of the petitioner over the said property before entering into said lease agreement. The final lease deed was executed on 20.10.2019 and was registered on 03.01.2020 and respondent took possession of the same on 30.12.2019. However, respondent started delaying the payments of rents from February & March 2020. Further, certain more disputes with regard to payment of rent and schedule thereof arose between the parties and various email were exchanged in this regard. It is claimed by the petitioner that respondent failed to make the due payments and instead,

on 07.08.2020 handed over the possession of the property to the petitioner, which was accepted without prejudice to the rights and contentions of the petitioner.

5. Thereafter, petitioner sent a notice to the respondent for invocation of arbitration as per clause 14.2 of the registered lease deed and proposed two names as Arbitrators. However, respondent failed to appoint the Arbitrator and thus, the present petition has been filed.

6. At the hearing, learned counsel appearing on behalf of respondent has disputed the claims raised in the present petition, however, has submitted that the disputes are arbitrable and has consented to the appointment of sole Arbitrator by this Court.

7. In view of the above, the present petition is allowed. Accordingly, **Mr. Justice (Retd.) Jayant Nath (Mobile: 8527959494)** is appointed sole Arbitrator to adjudicate the dispute between the parties.

8. The arbitration shall be conducted under the Delhi International Arbitration Centre (DIAC). The fee of the Arbitrator shall be in accordance with Delhi International Arbitration Centre (Administrative Cost and Arbitrators' Fees) Rules, 2018.

9. The learned Arbitrator shall ensure compliance of Section 12 of

Arbitration and Conciliation Act, 1996 before commencing the arbitration.

10. The present petition stands disposed of accordingly.

11. A copy of this order be sent to the learned Arbitrator for information.

(SURESH KUMAR KAIT)
JUDGE

DECEMBER 17, 2021/ab

