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

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Date of decision: 18.01.2022+ **FAO (COMM) 8/2022****NJ BIKES INDIA PRIVATE LIMITED**

.....Appellant

Through: Ms Kiran Suri, Sr. Advocate with
Mohd. Irfan, Advocate.*versus***SUZUKI MOTORYCYCLE INDIA PRIVATE LIMITED**

.....Respondent

Through: Mr Anshul Sehgal, Advocate.

CORAM:**HON'BLE MR JUSTICE RAJIV SHAKDHER****HON'BLE MR JUSTICE TALWANT SINGH****[Court hearing convened *via* video-conferencing on account of COVID-19]****RAJIV SHAKDHER, J.(ORAL):-****CM APPL. 3003/2022**

1. Allowed, subject to just exceptions.

FAO (COMM) 8/2022 and CM APPL. 3002/2022*[Application filed on behalf of the appellant for interim relief]*

2. This appeal is directed against the order dated 06.01.2022, passed by the learned District judge (Commercial Court)-01, Patiala House Courts, New Delhi. The impugned order dated 06.01.2022 has been passed in an application filed by the appellant under Section 9 of the Arbitration and Conciliation Act, 1996 [in short “the 1996 Act”].

3. We have heard Ms Kiran Suri, learned senior counsel, who appears on behalf of the appellant, as also Mr Anshul Sehgal, who appears on advance



notice on behalf of the respondent.

4. After some arguments, counsel for the parties i.e., Ms Suri and Mr Sehgal agreed that the appeal could be disposed of based on the following directions. We may add that, both the counsels have taken instructions in the course of the proceedings from their respective principals, as regards the directions which are being issued by the Court.

4.1. Given this position, the appeal is disposed of with the following directions:

- (i) Mr Justice S.P. Garg (Retd.), former judge of this Court, shall act as the sole arbitrator in the matter concerning disputes which have arisen between the parties herein.
- (ii) The arbitration proceedings will be governed by the provisions of the 1996 Act.
- (iii) The fee payable to the learned arbitrator i.e., Mr Justice SP Garg (Retd.) will be, as per the provisions of the fourth Schedule of the Act.
- (iv) The learned arbitrator shall also make necessary disclosures as required under the Act.
- (v) The appellant will be at liberty to move an application before the learned arbitrator for return of goods, which were bought under the dealership agreement obtaining with the respondent at the relevant point in time. The respondent will be at liberty to file a reply to the aforesaid application; whereupon the learned arbitrator will adjudicate upon the same. If such an application is filed, the same will be dealt with by the learned arbitrator in the first instance.
- (vi) The appellant will be free to move before the learned arbitrator any other interlocutory application(s) in furtherance of its case. This, however,



will not come in the way of the respondent resisting the same, if thought fit.
(vii) Needless to add, nothing stated by us hereinabove will impact the merits of the case.

5. Consequently, pending application shall also stand closed.

(RAJIV SHAKDHER)
JUDGE

(TALWANT SINGH)
JUDGE

JANUARY 18, 2022
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Click here to check corrigendum, if any