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

% ***Date of decision: 07.02.2022***

+ **ARB.P. 144/2022**

NEWGEN SOFTWARE TECHNOLOGIES LIMITED Petitioner

Through **Mr. Angad Sandhu and Ms.Tanya
Mittal, Advs.**

versus

OXYGEN BUSINESS PARK PRIVATE LIMITED Respondent

Through **Ms. Malvika Kapila Kalra, Ms.Nivriti
Raniwala, Mr. Nikhil Ranjan Ahuja,
Ms. Monisha Mane and Ms. Warisha
Parkar, Advs.**

**CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT**

J U D G M E N T (oral)

The hearing has been conducted through video conferencing.

I.A. 2070/2022 (Exemption)

1. Exemption is allowed with direction to file certified/true copies of dim annexures with margin within four weeks.
2. Application is disposed of.

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3. The present petition has been filed under Sections 11(5) and 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of sole



Arbitrator to adjudicate the disputes inter-se the parties.

4. Pertinently, petitioner and respondent both are companies incorporated under the Companies Act, 1956 and petitioner is the leading provider of unified digital transformation platform with native process automation, content services and communication management capabilities. According to the petitioner, respondent is a Grade A office park in close proximity to the Noida-Greater Noida Expressway and it is one of only two SEA part in its submarket with excellent infrastructure, easy access to talented individuals and brilliant connectivity.

5. As per the averments made in the present petition, parties executed a Sub Lease Deed on 18.12.2014 for leasing out property located in the Special Economic Zone of Noida for a period of 6 years commencing from 07.04.2013 till 06.04.2019 and the said lease deed was renewed for a further period of three years as per terms and conditions commencing from 07.04.2019 and expiring on 06.04.2022. However, on 30.12.2020, petitioner sent an email giving a three months' notice period to respondent for terminating the renewed deed and respondent accepted the termination email. Thereafter it was agreed between the parties that petitioner would transfer vacant possession of the demised premises to respondent by



31.03.2021. Subsequently, various disputes arose between the parties pertaining to date of handing over the vacant, peaceful and physical possession of the demised premises along with refund of interest free security deposit. Accordingly, as per the terms of the renewed deed, all disputes between the parties were to be settled and adjudicated by the process of arbitration.

6. Thereafter, respondent vide a notice dated 15th December 2021, invoked arbitration and suggested appointment of an individual as an arbitrator. The Petitioner replied to the same and declined the appointment of the arbitrator suggested by the Respondent. The Petitioner subsequently provided names of three (3) individuals to be appointed as an arbitrator vide an e-mail dated 5th January 2022, however, the same were rejected by the Respondent. Hence, the present petition has been filed.

7. During the course of hearing, learned counsel appearing on behalf of the respondent has not opposed the present petition and submits that the claims raised in the present petition are disputed, however, fairly conceded that the disputes *inter se* parties are arbitrable. Learned counsel also submitted that respondent has no objection if disputes are referred to an independent arbitrator appointed by this Court.



8. Accordingly, the present petition is allowed and **Mr.Abhishek Chauhan, Advocate (Mobile: 9971034355)** is appointed sole Arbitrator to adjudicate the dispute between the parties.

9. The fee of the learned Arbitrator shall be governed by the Fourth Schedule of the Arbitration and Conciliation Act, 1996.

10. The learned Arbitrator shall ensure compliance of Section 12 of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

11. The present petition and pending application, if any, are accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

FEBRUARY 07, 2022/ab

