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

% Judgment delivered on: 21st April, 2022

+ ARB.P. 991/2021

MCCAIN FOODS INDIA PVT LTD

..... Petitioner

versus

BHARAT KUMAR THAKOR AND ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Amit Tyagi, Advocate

For the Respondent: Mr. Arvind Kumar Shukla, Ms. Neena Shukla, Mr. Tushar Swami and Ms. Prachi Goyal, Advocates

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J

I.A. 5726/2022 (for substituting Sole Arbitrator) in ARB.P. 991/2021

1. By way of this application, petitioner seeks appointment of a new Arbitrator in place of Arbitrator appointed by order dated 28.02.2022.

2. By order dated 28.02.2022 in Arbitration Petition No. 991/2021, Justice Rekha Sharma (former Judge of this Court) was

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appointed as the Sole Arbitrator. Justice Rekha Sharma (Retd.) by her communication dated 25.03.2022 has stated that the respondent appears to be unwilling to participate in the proceedings in Delhi and as such she has requested to be relieved from the position of the Arbitral.

3. Learned counsel for the respondent submits that respondent had merely suggested that either the proceedings be held in Ahmadabad or the evidence of the witnesses be permitted to be recorded in vernacular which would be Gujarati.
4. Learned counsels for the parties submit that they have no objection in case the Arbitral Tribunal is constituted with a Sole Arbitrator who is conversant with the language of Gujarati, even though the seat is Delhi. They further submits that if required, with the consent of parties and subject to the directions being issued by the Arbitral Tribunal, proceedings may also be held in Gujarat depending on the availability and convenience of the witnesses.
5. In view of the above with the consent of the parties and without prejudice to their rights and contentions, Mr. Justice Ramesh P. Bhatt (retired) (Mobile No. +91 9810990066) is appointed as the sole Arbitrator. The Arbitral tribunal shall entertain the claims and counter claims, if any, of the parties.



6. The fees of the learned Arbitrator shall be as per the Fourth Schedule of the Arbitration and Conciliation Act, 1996. However, in case any sitting is required in Gujarat, the Arbitrator would be entitled to fix his fee for the said sitting in Gujarat and the same shall be at the cost and expense of the Party requesting.
7. Arbitrator shall furnish the requisite disclosure under section 12 of the Arbitration and Conciliation Act, 1996 within two weeks of entering reference.
8. Petition is disposed of in the above terms.

SANJEEV SACHDEVA, J

APRIL 21, 2022
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