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

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Date of decision: 04.01.2022

+ ARB.P. 1039/2021

THE GREAT GETSBY CLUB OF INDIA REGD Petitioner

Through Mr.Sandeep Sethi, Sr. Adv. with
Mr.Rahul Malhotra, Mr.Manoranjan
Sharma, Mr.Varan Garg & Mr.Karan
Rajpurohit, Advs.

versus

DELHI DEVELOPMENT AUTHORITY Respondent

Through Mr.Ashim Vachher, Adv.

+ O.M.P.(I) (COMM.) 333/2021

THE GREAT GETSBY CLUB OF INDIA (REGD.) Petitioner

Through Mr.Sandeep Sethi, Sr. Adv. with
Mr.Rahul Malhotra, Mr.Manoranjan
Sharma, Mr.Varan Garg & Mr.Karan
Rajpurohit, Advs.

versus

DELHI DEVELOPMENT AUTHORITY & ANR. Respondents

Through Mr.Ashim Vachher, Adv.

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.



1. The above captioned first petition (ARB.P.1039/2021), has been filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate the disputes between the parties. The second captioned (O.M.P.(I) (COMM.) 333/2021) has been filed by the petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 restraining the respondents from taking any coercive actions in respect of the land admeasuring 8532.87 sq. mtrs. allotted to the petitioner under the lease deed dated 12.04.2006 and the building structure standing thereon, till adjudication of disputes between the parties.

2. Since the parties in the above captioned petitions are same and issues between the parties are similar in nature, therefore, with the consent of learned counsel for the parties these petitions have been heard together and are being disposed of by this common judgment.

3. Petitioner claims to be a society registered under the Society Registration Act, 1860. According to the petitioner, respondent/ Delhi Development Authority, who is a government organisation under the Delhi Development Act, 1957, proposed to allot a piece of land vide allotment letter dated 25.09.2001 to the petitioner under the provisions of DDA (Developed Nazul Land) Rules, 1981 on perpetual lease hold basis at Institutional Complex, Mandawali Fazal Pur, Delhi. Thereafter vide demand letter dated 13.06.2002, respondent allotted an alternate land measuring 8500 sq. mtrs. to the petitioner for carrying out club/cultural activities. Moreover, on 19.07.2002, possession of land measuring 8532.87 sq. mtrs. was handed over to the petitioner and a perpetual lease deed was executed on 12.04.2006. According to the lease deed, construction of the building

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was started during the year 2012 and thereafter, extension of time till 31.12.2013 for construction of the building was obtained from respondent.

4. Learned senior counsel for the petitioner submits that due to some misconception/misinformation, respondent issued various notices which were duly replied by the petitioner. Thereafter on 14.01.2021, respondent issued a Final Show Cause Notice putting a Caveat that it would cancel the allotment of the said land and in reply thereto, petitioner refuted each and every allegation and gave a point wise response vide letter dated 04.02.2021. However, respondent forwarded the file to Hon'ble Lieutenant Governor of Delhi. In furtherance to the above action of the respondent, petitioner also submitted a representation-cum-explanation letter dated 20.07.2021 to Hon'ble Lieutenant Governor of Delhi wherein it reiterated that petitioner-Society has not done any violation either in terms of the lease deed or the allotment letter and hence, requested the respondent not to take any coercive action. Moreover, petitioner also submitted a letter dated 10.09.2021 to the respondent for personal hearing. However, in response thereto respondent vide letter dated 15.09.2021 informed the petitioner that the competent authority has cancelled the allotment of the plot and lease deed. A direction was also issued to the petitioner to handover the physical possession of the plot with super structure standing thereon on SE(HQ)EZ DDA on or before 30.09.2021 and in case of default, respondent shall initiate proceedings for eviction and also to take actions for disconnection of water/electricity and other service connections to the plot.

5. During the course of hearing, learned counsel for the respondent submitted that despite repeated warnings, there are various violations by the
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petitioner-society and therefore, the impugned letter/order dated 15.09.2021 was issued.

6. Upon the submission of counsel for the respondent, learned counsel for the petitioner submits that aggrieved by the coercive actions proposed by the respondent vide letter/order dated 15.09.2021, petitioner had filed the second captioned petition, wherein vide order dated 01.10.2021, this Court had stayed the effect and operation of the letter/impugned order dated 15.09.2021. Subsequently, petitioner had invoked arbitration by issuing notice under Section 21 of the Arbitration and Conciliation Act, 1996 to the respondent. However, since no response has been received either from the respondent or from the office of Hon'ble Lieutenant Governor of Delhi despite expiry of 30 days, hence, the petitioner is before this Court.

7. Learned counsel appearing on behalf of respondent has objected to the averments made in the present petition, however, has submitted that the disputes are arbitrable and he has no objection if this Court appoints a sole arbitrator.

8. In view of the above, the above captioned first petition is allowed. Accordingly, **Mr.O.P.Saini, DHJS (retd.) (Mobile: 9717196857)** is appointed sole Arbitrator to adjudicate the dispute between the parties.

9. With regard to second petition filed under the provisions of Section 9 of the Arbitration and Conciliation Act, 1996, this Court finds that the since the subject matter of dispute has been referred to the arbitral tribunal, parties are at liberty to claim any interim relief before the learned Arbitrator.

10. At this stage, learned senior counsel appearing on behalf of petitioner submits that the second captioned petition be treated as the one filed under *ARB.P.1039/2021 & O.M.P.(I) (COMM.) 333/2021*



Section 17 of the Act and it be also referred to the arbitral tribunal for consideration under the provisions thereof.

11. The aforesaid submission of learned senior counsel for petitioner is not disputed by the other side.

12. Accordingly, it is directed that the second captioned petition i.e. O.M.P.(I) (COMM.) 333/2021 be treated as the one filed under Section 17 of the Arbitration and Conciliation Act, 1996 on behalf of petitioner and it is also referred to the same Arbitral Tribunal for consideration as per law.

13. Registry is accordingly directed to send O.M.P.(I) (COMM.) 333/2021 to the learned Arbitrator forthwith. The interim directions passed vide order dated 01.10.2021 in the said petition shall continue till commencement of proceedings before the learned Arbitrator.

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

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

16. With aforesaid directions, the above captioned two petitions are accordingly disposed of.

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

(SURESH KUMAR KAIT)
JUDGE

JANUARY 04, 2022
ab/r