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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(234)

ARB-92-2022 (O&M)
Date of decision:- 23.09.2024

M/s Kare Partners Group India Private Limited**... Petitioner****Versus****St. Joseph's Hospital Society****... Respondent****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Vivek Aggarwal, Advocate and
Mr. Vinod Kumar, Advocate, counsel for the petitioner.

Mr. Arav Gupta, Advocate, counsel for the respondent.

SUVIR SEHGAL, J. (ORAL)**CM-2377-CII-2022**

1. Exemption, as prayed for, is granted.
2. Application is allowed.

Main case

1. By way of instant petition filed under Sections 11 (5) and 11 (6) of the Arbitration and Conciliation Act, 1996 (for short "the Act"), petitioner has approached this Court for appointment of a sole Arbitrator.
2. Counsel for the petitioner submits that an agreement dated 02.07.2016, which was followed by Amendment-cum-Addendum Agreement dated 20.06.2019, collectively appended as Annexure P-2, were entered into between the parties, whereunder the petitioner was to set up, manage and operate a Cardiac Centre at St. Joseph's Hospital, Ghaziabad and provide services in relation thereto. Counsel submits that in breach of the conditions of the agreement, by a legal notice dated 01.04.2021, Annexure P-6, respondent terminated the agreement, which was challenged



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by it by filing a petition under Section 9 of the Act. He submits that vide order dated, 01.07.2021, Annexure P-10, learned Additional District Judge, Chandigarh stayed the termination notice. However, the termination notice was withdrawn by the respondent and a fresh order of termination was issued on 28.12.2021, Annexure P-13. He submits that as a dispute had arisen between the parties, a notice dated 10.08.2021, Annexure P-11, was served upon the respondent for appointment of an Arbitrator. Counsel asserts that the notice remained unattended.

3. A short reply has been filed on behalf of the respondent contesting the petition, wherein it has been submitted that the petitioner failed to abide by the terms of the agreements, Annexure P-2 and despite being repeatedly put to notice, did not improve its service, which impelled the respondent to terminate the agreement. By making a reference to para 13 of the short reply, counsel for the respondent has highlighted the alleged acts of omission and commission committed by the petitioner. Reference is also been made by him to Annexures R-3 and R-4 to highlight the various complaints received against the petitioner, which are supported with photographs. He submits that the petitioner is liable to pay an amount of Rs.2 crore to the respondent as per details given in Annexure R-2.

4. I have heard counsel for the parties and considered their respective submissions.

5. From the respective stand taken by the parties, it is evident that disputes exist between them, which deserve to be adjudicated by appointment of an Arbitrator. Although, there is a provision in the



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Arbitration Clause for amicable settlement of the disputes by discussion, but in the background as has been highlighted by the counsel for the respective parties, that exercise seems futile. This pre-condition can, therefore, be waived and the prayer made in the petition deserves to be acceded to.

6. Accordingly, petition is allowed. Mr. Justice (Retd.) Inderjit Singh, a former Judge of this Court, resident of #497, LAS IPS Society, New Chandigarh, Mobile No. 8558809904 is nominated as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory provisions.

7. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed by him at his convenience.

8. Liberty is granted to the parties to raise all claims, counter claims, defences, pleas etc. before the learned Arbitrator.

9. Needless to mention that all the questions arising between the parties in this matter shall remain open for determination in the arbitral proceedings and any observation made will not be binding on the learned Arbitrator.

10. A request letter alongwith a copy of the order be sent to Mr. Justice (Retd.) Inderjit Singh.

11. Pending application, if any, stands disposed of.

23.09.2024
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No