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

+ **ARB.P. 34/2024**

SANJEEV RATNA & ORS.

..... Petitioners

Through: Mr. Samrat Nigam, Mr. Sudarshan
Rajan, Mr. Hitain Bajaj and Mr.
Ammit Punj, Advocates.

versus

BHART KUMAR & ORS.

..... Respondents

Through: Ms. Shobhana Takiar and Mr. Kuljeet
Singh, Advocates for respondents
Nos. 1, 2, 4 & 8.

+ **ARB.P. 327/2024 & I.A. 5263/2024**

SRB ASSOCIATES & ORS.

..... Petitioners

Through: Ms. Shobhana Takiar and Mr. Kuljeet
Singh, Advocates.

versus

SANJEEV RATNA & ANR.

..... Respondents

Through: Mr. Samrat Nigam, Mr. Sudarshan
Rajan, Mr. Hitain Bajaj and Mr.
Ammit Punj, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

16.04.2024

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Parties were referred to mediation *vide* last order dated
05.03.2024. Though mediation report is not on record, learned
counsel for the parties inform the court that mediation proceedings
have ended as 'Not-Settled'.



2. By way of these petitions under section 11 of the Arbitration & Conciliation Act 1996 ('A&C Act'), the parties seek appointment of a Sole Arbitrator to adjudicate upon the disputes that are stated to have arisen between them.
3. Shorn of all unnecessary details, the parties are in dispute in relation to a resort run by them through entities under the name and style of M/s Yo-Life Projects Pvt. Ltd. and Avenue 18 Hospitality in Tehsil : Yamkeshwar, District : Pauri Garhwal, Uttarakhand.
4. In that context, the petitioners in ARB.P. No. 34/2024 have canvassed the following agreements/documents :

S. No.	Agreement	Arbitration Clause	seat/venue/ place	Territorial Jurisdiction
1.	Agreement of Association of Persons dated 01.01.2014	Clause 17	not mentioned	not mentioned
2.	Development Agreement dated 12.01.2017	Clause 31	not mentioned	Clause 33 : Courts at Kotdwara/ District Pauri Garhwal
3.	Partnership Deed dated 28.09.2018	Clause 13	not mentioned	not mentioned
4.	Supplement Agreement of Association of Persons dated 27.01.2022	Clause 23	'place' : New Delhi	not mentioned
5.	Agreement dated 19.10.2022	Clause 17	not mentioned	Courts in Delhi



5. On the other hand, the petitioners in ARB.P. No.327/2024 have based their prayer for reference to arbitration on the following agreements/documents :

S. No.	Agreement	Arbitration Clause	seat/venue/ place	Territorial Jurisdiction
1.	Agreement Deed dated 01.01.2014	Clause 17	not mentioned	not mentioned
2.	Development Agreement dated 12.01.2017	Clause 31	not mentioned	Clause 33 : Courts at Kotdwara/ District Pauri Garhwal
3.	Partnership Deed dated 28.09.2018	Clause 13	not mentioned	not mentioned

6. To be clear, the petitioners in ARB.P. No. 327/2024 have contended that the copy of Partnership Deed dated 28.09.2018 filed on record by the opposing parties, is a forged copy of the Partnership Deed. They have also disputed the various agreements/documents relied upon by the petitioners in ARB.P. No.34/2024 on various other counts.
7. Be that as it may, Mr. Samrat Nigam, learned counsel for the petitioners in ARB.P. No. 34/2024 and Ms. Shobhana Takiar, learned counsel appearing for petitioners in ARB.P. No. 327/2024 fairly submit, that since arbitration agreements are comprised in almost all the agreements/documents cited by the rival parties; even if the seat, venue and/or place of arbitration may not have been mentioned in all of them; and even though the territorial jurisdiction of the court may also not have been specified in all the agreements, considering the nature of the disputes that have arisen between the parties and the fact



that the disputes are inherently interlinked and intertwined, *all disputes between all the parties to these proceedings* be referred to arbitration of a learned Sole Arbitrator.

8. As per the record, notice in ARB.P. No. 34/2024 was issued on 10.01.2024; and though no formal notice has been issued in ARB.P. No.327/2024, the respondents in that matter are duly represented, have been heard, and have also consented to arbitration.
9. It is also noticed that the petitioners in ARB.P. No. 34/2024 have invoked arbitration *vide* notice dated 27.11.2023, to which the respondents have not sent any reply. Though no formal invocation notice appears to have been sent by the petitioners in ARB.P. 327/2024, in view of the submissions made by learned counsel for the parties, and in aid of expeditious reference of their disputes to arbitration, this court does not propose to dwell any further into that aspect.
10. However, considering that the rival parties are disputing the agreements/documents cited by each other on several counts, including in certain cases by alleging forgery and fabrication of documents, *all rights and contentions* of the parties in relation to *all documents* referred to above are kept open, to be considered and decided by the learned Arbitrator, in accordance with law.
11. Upon a conspectus of the averments contained in the petitions, the stand taken by the parties, and the submissions made by counsel, this court is satisfied that there is a valid and subsisting arbitration agreement between the parties; that this court has territorial jurisdiction to entertain and decide the present petition; and also that



the disputes that are stated to have arisen between the parties, as set-out *inter-alia* in invocation notice dated 27.11.2023, do not appear *ex-facie* to be non-arbitrable.

12. Accordingly, the present petitions are allowed and **Hon'ble Mr. Justice Akil Kureshi, former Chief Justice of the Rajasthan High Court (Cellphone No.: +91 9408481511)** is appointed as the learned Sole Arbitrator to adjudicate upon the disputes between the parties.
13. The learned Sole Arbitrator would furnish to the parties requisite disclosures as required under section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.
14. The learned Arbitrator shall be entitled to fee in accordance with Fourth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Arbitrator.
15. Parties shall share the arbitrator's fee and arbitral costs, equally, *i.e.* to say half-and-half as between the claimants and the non-claimants in each of the two references (regardless of the number of parties on each side). It is clarified that the reference to arbitration in each petition shall be treated as a separate reference.
16. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.
17. Parties are directed to approach the learned Arbitrator appointed within 15 days.
18. A copy of this order be communicated by the Registry *via* e-mail to the learned Sole Arbitrator, as also to learned counsel for the parties.



19. The petition stands disposed-of in the above terms.
20. Other pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

APRIL 16, 2024

V.Rawat