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

+ O.M.P.(I) (COMM.) 18/2024

MAHINDER KUMAR

..... Petitioner

Through: Mr. P.D. Gupta, Sr. Advocate with
Mr. Atul Gupta, Advocate.

versus

DARWIN PLATFORM GROUP OF
COMPANIES

..... Respondent

Through: Mr. Gaurav Jain, Advocate.

+ O.M.P.(I) (COMM.) 19/2024

MAHINDER KUMAR

..... Petitioner

Through: Mr. P.D. Gupta, Sr. Advocate with
Mr. Atul Gupta, Advocate.

versus

DARWIN PLATFORM GROUP OF
COMPANIES

..... Respondent

Through: Mr. Gaurav Jain, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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06.02.2024

1. These two petitions have been filed under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”], for pre-reference interim measures of protection in anticipation of arbitration proceedings under two license agreements.

2. In O.M.P.(I) (COMM.) 18/2024, the license agreement was entered into on 25.05.2022, in respect of *Unit No. 9 & 10, Second Floor, Le Meridien Commercial Tower Hotel, Le Meridien, 8 Windsor Place, Janpath, New Delhi, 110001*. In O.M.P.(I) (COMM.) 19/2024, the license



agreement is dated 15.07.2021, and is in respect of *Unit No. 8B, Second Floor, Le Meridien Commercial Tower Hotel, Le Meridien, 8, Windsor Place, Janpath, New Delhi-110001*.

3. The contention of the petitioner is that the respondent has defaulted in payment of rent since 15.10.2022 in respect of Unit Nos. 9 and 10. The monthly rent for the said premises is Rs. 2,52,000/-. As far as Unit No. 8B is concerned, the default is since 15.07.2023, and the monthly rent is Rs.1,43,500/-.

4. Both agreements contain arbitration clauses, which contemplate arbitration under a sole arbitrator.

5. Mr. Gaurav Jain, learned counsel, has entered appearance on behalf of the respondent in both matters, pursuant to notice issued on 15.01.2024. He submits that the respondent is desirous of making an attempt to settle the disputes with the petitioner. Mr. P.D. Gupta, learned Senior Counsel for the petitioner, is also agreeable to such an attempt.

6. During the course of hearing, a consensus has emerged between the parties. The petitions are disposed of, with the consent of learned counsel for the parties, with the following directions:

- a. The parties are referred to mediation under the aegis of Samadhan, Delhi High Court Mediation and Conciliation Centre, Shershah Road, New Delhi-110503. They will appear before the learned Mediator on 15.02.2024.
- b. In the event that the mediation proceedings do not reach a successful conclusion within a period of four weeks from the said date, the disputes between the parties will be adjudicated by arbitration of Mr. O.P. Gupta, retired District Judge [Tel:-



9910384645]. The appointment of an Arbitrator in these proceedings is at the request of the learned counsel for the parties.

- c. The proceedings will be adjudicated by a common Arbitrator, but will be treated as two arbitrations for all purposes.
 - d. The remuneration of the learned Arbitrator will be computed in accordance with the Fourth Schedule of the Act.
 - e. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.
 - f. For the present, the respondent is directed to pay the current rent [Rs.2,52,000/- per month for Unit Nos.9 and 10 and Rs.1,43,500/- for Unit No. 8B], to the petitioner within 15 days from today for the month of January 2024 and February 2024, and by the 7th day of each succeeding month thereafter.
 - g. In the event that arbitration proceedings are necessary, these petitions will be treated as petitions under Section 17 of the Act, before the learned Arbitrator. The respondent is directed to file replies thereto, within one week after the Arbitrator enters into the reference positively. The learned Arbitrator will be free to pass further orders under Section 17 of the Act as may be considered appropriate.
7. It is made clear that this Court has not adjudicated upon the merits of the disputes between the parties, which are left open for adjudication.

PRATEEK JALAN, J

FEBRUARY 6, 2024/SS/