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

+ **ARB.P. 112/2024**

FARIDABAD IMPLEMENTS PVT. LTD. Petitioner

Through: Mr. Tarun Singla and Mr. Ajay Pal
Singh, Advocates.

versus

ROSEMALLOW HOTELS PVT. LTD. Respondent

Through: Mr. Amit Kumar, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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02.04.2024

I.A. 1925/2024 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The Arbitration Petition under Section 11(5) of the Arbitration and Conciliation Act, 1996, has been filed on behalf of the petitioner for appointment of the Arbitrator for adjudicating/deciding the *inter se* disputes between the parties.
4. It is submitted in the Petition that on 08.12.2022 the Registered Lease Deed was executed between the parties whereby the respondent took Property No. C-18, Friends Colony East, Main Mathura Road, New Delhi-110065, on rent.
5. The respondent submits that there were various defaults/violations for which the petitioner issued a letter on 19.08.2023, calling upon the



respondent to rectify the defaults/violations on the part of the respondent, within 15 days of receipt of notice. The Reply dated 02.09.2023 was given by the respondent wherein the respondent admitted its defaults and breaches and sought time to remedy the same. Since the respondent failed to cure the violations/defaults, the Lease Deed was terminated *vide* Letter dated 03.09.2023, in terms of the Clause 5.1 of the Lease Deed dated 08.12.2022. Consequently, the petitioner encashed respondent's Bank Guarantee of Rs.1 Crore, on 14.09.2023.

6. The respondent has failed to hand over the possession of the suit property even though the prescribed period under the Lease Deed has expired. The petitioner wrote a Letter dated 09.10.2023, requesting the respondent to hand over the possession, to which a reply dated 16.10.2023 has been given on behalf of the respondent, who has claimed the termination to be illegal and had declined to hand over the possession.

7. The petitioner thus issued a Notice of Invocation of Arbitration dated 26.10.2023 and sought the concurrence of the respondent for appointment of the learned Sole Arbitrator, as suggested in the Notice, but the respondent declined to the appointment of the learned Arbitrator, as suggested by the petitioner *vide* its reply dated 20.11.2023. The present petition has thus, been filed for appointment of the learned Sole Arbitrator for adjudication of the *inter se* disputes between the parties.

8. **The respondent has contested the petition by filing a reply** wherein the objection has been taken that the petition is not filed through duly authorized person. Moreover, the Certificate under Section 65B is incorrect and is filed by unauthorised person. On merits, the contention of the petitioner, has also been denied.



9. **Submissions heard.**

10. The existence of Arbitration Clause and the Lease Agreement has not been denied. There are arbitrable disputes raised in regard to the termination of the Lease Deed and handing over the possession by the respondent, of the suit properties. Therefore, Mr. Justice Jayant Nath (Retired), (M) 8527959494, is hereby appointed as Sole Arbitrator, to adjudicate the disputes between the parties.

11. The parties are at liberty to raise their respective objections before the Arbitrator.

12. The fees of the learned Arbitrator would be fixed in accordance with the Schedule-IV of the Act, 1996 or as consented by the parties.

13. This is subject to the Arbitrator making necessary disclosure as under Section 12(1) of the Act, 1996 and not being ineligible under Section 12(5) of the Act, 1996.

14. Learned counsels for the parties are directed to contact the learned Arbitrator within one week of being communicated a copy of this Order to them by the Registry of this Court.

15. Accordingly, the present petition is disposed of in the above terms.

NEENA BANSAL KRISHNA, J

APRIL 2, 2024/RS