



2024:DHC:7194



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

+ **ARB.P. 403/2022**

PRADEEP KUMAR AGGARWALPetitioner

Through: Mr. Vijay Nair and Ms. Pallavi
Tayal Chadda, Advs.

versus

ANOOP AGGARWALRespondent

Through: Mr. Manik Dogra, Ms. Anju
Jain, Mr. Hitesh Sachar and Mr. Dev Inder
Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (ORAL)

18.09.2024

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I.A. 39501/2024

1. By this application, the applicant, who was impleaded as Respondent 2 in these proceedings, at her own instance, by allowing IA 12150/2022, now seeks to be deleted from the array of parties.

2. These proceedings cannot be likened to a caravanserai into which people can walk in and walk out at their leisure.

3. Respondent 2 was impleaded in these proceedings at her own request by allowing IA 12150/2022.

4. Mr. Dogra appears for the said respondent submits that she is now seeking deletion as she only wanted to be impleaded to make



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certain statements. Such a process is not known to law. By seeking impleadment, Respondent 2 implicitly contended that she was a necessary, or at least a proper, party to the proceedings.

5. As things stand today, Respondent 2 has voluntarily become a party in these proceedings. It would always be open to her, should she so choose, to seek deletion from the proceedings before the learned Arbitral Tribunal.

6. For the purpose of this petition, however, I am not inclined to allow her to walk out of the proceedings at this stage.

7. IA 39501/2024 is accordingly dismissed, reserving liberty with the applicant, however, to raise the prayer in this application before the learned Arbitral Tribunal.

8. As and when raised, the prayer would be considered on its own merits.

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9. By order dated 1 April 2024, a coordinate Bench of this Court had dismissed this arbitration petition. The said order was carried in appeal to the Supreme Court by way of Civil Appeal 9639/2024 (*Pradeep Kumar Aggarwal v Anoop Aggarwal & Anr*).

10. By order dated 20 August 2024, the appeal was allowed by the Supreme Court, the order dated 1 April 2024 was set aside and the



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matter was remitted to this Court “to make appointment of an Arbitrator or Arbitrators after hearing the parties.”

11. As such, there is an implicit direction in the order of the Supreme Court that an arbitrator should be appointed to arbitrate on the dispute.

12. The arbitration clause, contained in the Letter of Intent dated 8 August 2021, states that, in the event of the agreement failing, “this will then go for arbitration/mediation under the judicial system of the country”.

13. As dispute arose between the parties, the petitioner issued a notice under Section 21 of the Arbitration and Conciliation Act, 1996¹, to the respondent on 23 February 2022, seeking reference of the disputes to arbitration.

14. The amount in disputes between the parties is stated to be in the region of ₹ 15 crores.

15. As the parties have not been able to arrive at a consensus regarding the arbitration, this Court has necessarily to step in.

16. Accordingly, this Court appoints Mr. Sunil Fernandes, Senior Advocate, (Ph. 9891639491) as the arbitrator to arbitrate on the disputes between the parties.

¹ “the 1996 Act”, hereinafter



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17. The arbitration shall take place under the aegis of the Delhi International Arbitration Centre² and shall abide by its rule and regulations.

18. The arbitrator shall be entitled to charge fees as per the schedule of fees maintained by the DIAC.

19. The learned arbitrator is requested to furnish the requisite disclosure under Section 12(2) of the 1996 Act before entering on the reference.

20. All questions of fact and law including the preliminary as well as on merits, as well as enforceability of the LOI, are left open to be agitated in the arbitral proceedings.

21. This Court has not expressed any opinion on any aspect of the matter.

22. The petition is allowed accordingly.

C. HARI SHANKAR, J.

SEPTEMBER 18, 2024

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Click here to check corrigendum, if any

² "the DIAC", hereinafter