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

+ **ARB.P. 441/2023, I.A. 24871/2023**

M/S BRIGHT HOSPITALITY PVT. LTD. Petitioner

Through: **Mr.Adit S.Pujari, Mr.Shaurya Mittal
and Mr.Siddharth Kaushal, advts.**

versus

M/S H.L.T. FOODS HOSPITALITY LLP Respondent

Through:

**CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

**ORDER
08.02.2024**

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Present petition has been filed under Section 11 of the Arbitration and Conciliation Act for the appointment of an arbitrator for adjudication of the dispute *inter se* the parties. Learned counsel for the petitioner submits that a Restaurant Franchise Agreement dated 01.03.2019 was entered into between the parties. Learned counsel submits that as the respondent did not comply with the terms and conditions of the said Franchise Agreement, the restaurant franchise agreement was terminated vide notice dated 30.04.2022. Learned counsel further submits that the respondents are repeatedly violating the terms and conditions of the franchise agreement. The restaurant franchise agreement contains the arbitration clause with the venue at New Delhi. Learned counsel submits that though as per the franchise agreement, the arbitrator was to be appointed by the petitioner, however, in



view of the judgment in *Perkins Eastman Architects DPC & Anr. vs. HSCC (India) Ltd.* 2019 OnLine SC 1517, the present petition has been filed.

Learned counsel submits that the petition under Section 9 was also filed against the respondents in which respondents have duly appeared. It has further been submitted that the respondents duly appeared through counsel on 19.09.2023. However, thereafter they are not appearing and intentionally avoiding the settlement of dispute through arbitration.

It is pertinent to mention that on 03.08.2023, the court notice was issued to the respondent and the court recorded on 25.08.2023 that the respondents were duly served through email. Learned counsel for the petitioner has also filed the affidavit of service to show that the respondents have duly been served through email. The perusal of the record indicates that the same email id was given by the respondents in their reply in the petition under Section 9 application.

The record reveals that there is an arbitration clause and there is an arbitrable dispute between the parties. The arbitration has been invoked vide notice 22.08.2022. The claim amount is around Rs.61 lakhs.

Considering the facts and circumstances, the present petition is disposed of with the following directions:

- i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.
- ii) Mr.C.K.Chaturvedi, Former District & Sessions Judge (Mobile No.9810652722) is appointed as an Arbitrator to adjudicate the disputes between the parties.
- iii) The remuneration of the learned Arbitrator shall be in terms of Schedule IV of the A&C Act or as the parties may agree.



iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.

v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.

vi) The parties shall approach the learned arbitrator within two weeks from today.

The petition along with pending application is disposed of in the above terms.

DINESH KUMAR SHARMA, J

FEBRUARY 8, 2024

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