



2024:DHC:6136



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 451/2023

CLICK ORBITS PRIVATE LIMITED

.....Petitioner

Through: Mr. Divyam Dhyani and Mr.
Ankush Bhardwaj, Advs.

versus

DIGI MEDIA & ORS.

.....Respondents

Through: None

CORAM:**HON'BLE MR. JUSTICE C. HARI SHANKAR****ORDER (ORAL)****12.08.2024**

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1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act 1996¹ seeking reference of the dispute between the parties to arbitration.

2. Though all other modes of attempted service on the respondents have failed, the petitioner has served notice of this petition issued by the Court on the respondents at the respondents' email id ankit@aff-trust.com.

3. Mr. Divyam Dhyani, learned Counsel for the petitioner, has drawn my attention to emails addressed by the respondents to the petitioner from the said email Id. I may note, here, that Respondent 1 is a partnership firm of which Respondents 2 and 3 are partners.

¹ "the 1996 Act" hereinafter



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4. There is no reply to this petition. Nor, when the matter has been called out, is there any appearance on behalf of any the respondents.

5. I have heard Mr. Divyam Dhyani, learned Counsel for the petitioner and perused the material on record.

6. The dispute arises in the context of an Insertion Agreement dated 8 March 2021, which envisaged providing of digital marketing services by the petitioner for the advertisements of the respondents.

7. Clause 6 of the Insertion Agreement envisages resolution of the dispute between the parties, if any, by arbitration, and reads thus:

“6. GOVERNING LAW AND DISPUTE RESOLUTION

6.1 This Agreement shall be subject to Indian laws and the Courts at New Delhi, shall have exclusive jurisdiction in respect of any matter or dispute or arising out of or connected with the provisions of this Agreement.

6.2 If at any time any dispute arises between the Parties in relation to this Agreement, either Party may refer such Dispute to arbitration to be conducted by a Sole Arbitrator appointed by mutual consent of both the parties. Such arbitration proceedings shall be conducted in English language in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The seat and venue of arbitration shall be New Delhi.

6.3 The arbitration agreement shall be constructed in accordance with the laws of India.”

8. The petitioner alleges that some of its invoices have remained unpaid by the respondents. Emails calling upon the respondents to make the said payment proved futile, whereafter the petitioner, by

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HARI SHANKAR
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notice dated 22 February 2023, invoked the arbitration clause in the Insertion Agreement, and called upon the respondents to agree to appointing of an arbitrator to arbitrate on the dispute.

9. As the respondents have remained silent, the petitioner has approached this Court by means of the present petition under Section 11(6) of the 1996 Act.

10. The respondents have not chosen either to enter appearance or respond to the petition.

11. In view of the fact that there is an arbitration clause in existence between the parties, and the parties have not been able to arrive at a consensus regarding the arbitrator to arbitrate on the dispute, this Court has necessarily to exercise the jurisdiction vested in it by Section 11(6) of the 1996 Act.

12. Accordingly, this Court appoints Mr. Sanjeev Yadav, Advocate (Tel. 9868099500) as the arbitrator to arbitrate on the dispute between the parties.

13. The arbitrator would be entitled to charge fees as per the Fourth schedule to the 1996 Act.

14. The learned Arbitrator is requested to furnish the requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on the reference.

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15. The petition stands allowed in the aforesaid terms.

C. HARI SHANKAR, J.

AUGUST 12, 2024/dsn

Click here to check corrigendum, if any

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