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

+ **ARB.P. 452/2023, I.A. 12503/2023**

MR. GAUTAM ANAND AND ANR.

..... Petitioners

Through: Mr. Akhil Sachar, Ms. Sunanda
Tuslsyan, Advs.

versus

MR. PARMOD ANAND AND ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

09.02.2024

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1. By way of the present petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the '*A&C Act*'), the petitioner seeks appointment of an Arbitral Tribunal comprising of a Sole Arbitrator to adjudicate the disputes between the parties.
2. The facts in brief are that House No. 9/23, East Patel Nagar, New Delhi was purchased by the late Sh. Diwan Chand Anand after migrating from Pakistan in the year 1947. Late Sh. Diwan Chand Anand had two sons namely the late Shri Prem Nath Anand (grandfather of the petitioners) and Shri. Harjas Singh Anand (brother of late Sh. Prem Nath Anand).
3. Late Shri Prem Nath Anand and Shri Harjas Singh Anand sold the ancestral property that is House No. 9/23, East Patel Nagar, New Delhi, and from the sale proceeds of the same Late Shri Prem Nath Anand and



Shri Harjas Singh Anand acquired the following two properties:

- a. House No. 41 West Avenue Punjabi Bagh, New Delhi in the name of the name of Late Shri Prem Nath Anand.
 - b. House No.7, North Avenue Punjabi Bagh, New Delhi in the name of Late Shri Harjas Singh Anand.
4. It has been submitted that there has never been any dispute between the late Shri Prem Nath Anand and Shri Harjas Singh Anand. Subsequently, House No. 41 West Avenue Punjabi Bagh, New Delhi was sold and the sale proceeds thereof amicably and without any dispute were divided amongst the wife, two sons, and four daughters of late Shri Prem Nath Anand without any dispute.
 5. From these sale proceeds Smt. Pravesh Anand wife of late Shri Prem Nath Anand purchased a property i.e., House No.554, Sector-5, HUDA Kurukshetra, Haryana, in the name of Respondent No.2 Mrs. Uma Anand i.e., the mother of the petitioners.
 6. Learned counsel submits that though the property at Kurukshetra, Haryana was purchased in the name of Respondent No.2 Mrs. Uma Anand. However, the understanding was that 50% of the property would belong to Smt. Parvesh Anand i.e., the grandmother of the petitioners.
 7. Smt. Parvesh Anand died on 07.06.2007 and Shri Prem Nath Anand died on 28.09.2008 and thereafter vide court judgment dated 06.12.2014 passed by the Court of National Lok Adalat, Kurukshetra, Haryana 50% of the said House No.554, Sector-5, HUDA Kurukshetra, Haryana belonging to late Smt. Parvesh Anand stood vested with Shri Pramod Anand i.e., the father of the petitioner, and 50% of the property



continued to remain in the name of Respondent No.2.

8. The petitioners' case is that in 2021, they came to know that Respondent Nos. 1 and 2 sold the said property for a consideration of about Rs. 3 Crores.
9. It has been submitted that Respondent Nos. 1 and 2 are under the influence of Respondent No.3. Respondent No.3 is the brother of the petitioners. It has been submitted that the entire sale consideration has been pocketed by Respondents without equally sharing the sale proceeds between all the legal heirs of late Smt. Parvesh Anand.
10. The petitioners state that aggrieved of this a legal notice was served upon the respondents and thereafter a Memorandum of Understanding dated 20.11.2022 was executed. The Memorandum of Understanding contains the Arbitration Clause with the venue at Delhi.
11. Learned counsel submits that the respondents have failed to perform their part of the obligations.
12. Learned counsel submits that the Arbitration was invoked vide notice dated 25.02.2023. Learned counsel submits that the respondents have duly been served as appeared in the process service report dated 23.01.2024 wherein it is stated that the summons were refused by the respondents.
13. It has been submitted that the affidavit of service has also been filed as per which the respondents have been served through speed post. Learned counsel submits that the respondents are intentionally not appearing before the court.
14. Since the MoU in the present matter contains an arbitration clause and there is an arbitral dispute between the parties, 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) As agreed by both the counsels for the parties, DIAC shall nominate an Arbitrator to adjudicate the disputes between the parties.
- iii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi hereinafter, referred to as the 'DIAC'). The remuneration of the learned Arbitrator shall be in terms of fee of the DIAC Schedule.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act before 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 claims, 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.

FEBRUARY 9, 2024/AR

DINESH KUMAR SHARMA, J