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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 412/2024

M/S SIS LTD

..... Petitioner

Through: Mr. Anupam Kishore Sinha, Mr. Apoorv Jha, Mr. Pradeep Kumar Tiwari and Mr. Sahitya Srivastava, Advocates.

versus

MEDEOR HOSPITAL LIMITED

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

21.05.2024

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By way of the present petition under section 11(6)(a) of the Arbitration & Conciliation Act 1996 ('A&C Act'), the petitioner seeks appointment of a Sole Arbitrator to adjudicate upon the disputes that are stated to have arisen with the respondent from Agreement dated 29.06.2020 ('Agreement').

2. Notice on this petition was issued on 27.03.2024.
3. Office report records that the respondent has been served by ordinary process, as well as *via* e-mail sent by the Registry.
4. However, no one is present on behalf of the respondent when the matter is called-out. Neither has any reply been filed on behalf of the respondent.
5. In the circumstances, this court is satisfied that having been duly served in the matter, the respondent has chosen not to be represented. The respondent is accordingly set *ex-parte*.



6. Mr. Anupam Kishore Sinha, learned counsel for the petitioner has drawn the attention of this court to clause M(I) of the Agreement which comprises the arbitration agreement; and contemplates reference of disputes between the parties to arbitration in accordance with the A&C Act; with the place of arbitration being New Delhi.
7. For completeness, it may be recorded that a separate territorial jurisdiction provision is also contained in clause M(H) of Agreement, which subjects the contract between the parties to the jurisdiction of competent courts at Delhi.
8. As per the record, the petitioner invoked arbitration *vide* Notice dated 12.07.2023, to which the respondent has not sent any reply.
9. Upon a conspectus of the averments contained in the petition, and the submissions made at the Bar, this court is satisfied that there is a valid and subsisting arbitration agreement between the parties; that this court has territorial jurisdiction to entertain and decide the present petition; and also that the disputes that are stated to have arisen between the parties, as set-out *inter-alia* in invocation notice dated 12.07.2023, do not appear *ex-facie* to be non-arbitrable.
10. Accordingly, the present petition is allowed and **Mr. Zubin Singh, Advocate (Cellphone No. : +91 9810034486)** is appointed as the learned Sole Arbitrator to adjudicate upon the disputes between the parties.
11. The learned Sole Arbitrator shall furnish to the parties requisite disclosures as required under section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the petitioner is at liberty to file an appropriate application in this court.



12. The learned Arbitrator shall be entitled to fee in accordance with Fourth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Arbitrator.
13. Parties shall share the arbitrator's fee and arbitral costs, equally.
14. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.
15. Parties are directed to approach the learned Arbitrator appointed within 04 weeks.
16. A copy of this order be communicated by the Registry *via* e-mail to the learned Sole Arbitrator, as also to learned counsel for the petitioner.
17. The Registry is also directed to e-mail a copy of this order to the respondent at the e-mail ID, if any, available on record.
18. The petition stands disposed-of in the above terms.
19. Other pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

MAY 21, 2024

V.Rawat