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

+ **ARB.P. 419/2024**

SANJAY JAIN

..... Petitioner

Through: Mrs. Sukanya Choudhri, Adv. (M:
9811957306)

versus

KAMAL VERMA

..... Respondent

Through: Appearance not given.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **15.04.2024**

1. This hearing has been done through hybrid mode.
2. This is a petition filed by the Petitioner-Sanjay Jain under Section 11(6) of the Arbitration and Conciliation Act, 1996 (*hereinafter, 'the Act'*) seeking appointment of an arbitrator in terms of the Lease Agreement dated 30th May, 2022.
3. The dispute between the parties relates to the subject property situated at '**17-A, Bhogal Road, Bhogal, New Delhi-110014**'. Vide Lease Agreement dated 30th May, 2022, the first floor of the subject property, without terrace rights, was leased by the Petitioner, who is the landlord and owner, to the Respondent-Kamal Verma. The said lease is operational from 1st June, 2022 to 30th May, 2025. According to the Petitioner, the Respondent has been continuously defaulting on rent payments since 1st December, 2022. Consequently, the Petitioner terminated the tenancy vide legal notice dated 4th October 2023 and demanded vacant possession of the subject property by 31st October 2023. Furthermore, the Petitioner is also



seeking mesne profits and damages starting from 1st November 2023.

4. The said Lease Agreement also includes an arbitration clause i.e clause 13. Pursuant to this clause, the Petitioner approached the arbitrator, who, by vide letter dated 20th February 2024, declined to proceed as an arbitrator, as he is acquainted with both parties. In this context, the present arbitration petition has been filed.

5. Vide order 28th March, 2024, this Court issued notice in the present petition. Today, the Respondent has entered appearance and he is also present in person. It is his case that his brother is in possession of the subject property for the last twenty years. This position is disputed by Id. Counsel for the Petitioner, who submits that the *dasti* notice was received by Mr. Kamal Verma, in the subject premises, and that he has also paid rent for some time – so he is a tenant.

6. The arbitration clause - clause 13 of the Lease Agreement reads as under:

“13. That in case of any dispute regarding the explanation/understanding of this Agreement Dr. Subhash Jain or Mr. Hemant Jain both residing Bhogal New Delhi shall be appointed as an Arbitrator and his decision shall be final and binding upon both the parties.”

7. The named arbitrator in the Lease Agreement has already declined from acting as an arbitrator in the matter. The letter dated 20th February, 2024 by the named arbitrator declining to act as an arbitrator reads as under:-

*“Sanjay Jain
60-62, Bhogal Road,
Bhogal,*

20.02.2024



New Delhi-110014

Subject: Declining appointment as an Arbitrator

I have received your letter calling upon me to act as an arbitrator in some dispute between you and Mr. Kamal Verma resident of 17-A, Bhogal, New Delhi pursuant to an arbitration agreement entered between you and him, with regard to the said property.

I am acquainted with both the parties involved, which could compromise my ability to maintain impartiality and fairness in the case. I thus decline the appointment as arbitrator in this matter.”

8. As per the report of the Registry, Mr. Kamal Verma was served on 8th April, 2024, and Mr. Kamal accepted the *dasti* notice.
9. In view of this position, **Justice Pratibha Rani (Retd) (9910384626)**, is appointed as the Sole Arbitrator in this matter to adjudicate the disputes between the parties. The arbitration shall take place under the aegis of the Delhi International Arbitration Centre ('DIAC'). The fee of the Id. Sole Arbitrator shall be paid in terms of the 4th Schedule of the Act as amended by DIAC Rules, 2023.
10. The Id. Sole Arbitrator shall enter reference on 8th May, 2024.
11. Let a copy of the present order be emailed to Secretary, DIAC on email id- delhiarbitrationcentre@gmail.com.
12. The petition is disposed of. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

APRIL 15, 2024

dj/dn