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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 684/2022& I.A. 25053/2023

RAKESH KAPOOR

..... Petitioner

Through: Mr. Vipul Ganda, Mr. Vishal Ganda,
Ms. Tanya Hasija and Ms. Devina
Bhandari, Advs.

versus

RAHUL KAPOOR & ORS.

..... Respondent

Through: Mr. Anubhav Mehrotra, Adv.for R-2.
Mr. Bharat S. Kumar and Ms. Surabhi
Rao, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

06.03.2024

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1. This is a petition under Section 11(5) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate the disputes between the petitioner and respondent No. 1 and 2 with respect to the assets of the partnership firm namely, M/s. ColorCom.
2. Initially, M/s. ColorCom comprised of the petitioner, respondent No. 1 and their Late mother Mrs. Krishna Kapoor. Mrs. Krishna Kapoor expired on 10.12.2015 and thereafter, the partnership firm continued between the petitioner and respondent No.1. Respondent No. 2 is not a partner in M/s. ColorCom and hence not a party to the arbitral dispute.
3. The Partnership Deed dated 07.09.1998 of M/s. ColorCom contains an Arbitration Clause, (Clause 16) which reads as under:-

“16. Any dispute or difference which may arise between the partners or their representatives with regard to the constitution, meaning or effect thereof, or respecting the



accounts, profits or losses of the business or the liabilities of the partnership under this Deed or dissolution or winding up of the business or any other matter relating to the firm shall be referred to arbitrators one to be nominated by each party individually and in case of difference of opinion between the arbitrators, the matter shall be referred to an Umpire whose ruling shall be final.”

4. Since there are disputes with regard to dissolution of M/s. ColorCom and its distribution of assets, hence, the petition needs to be allowed and an Arbitrator needs to be appointed.

5. For the said reasons, the petition is allowed. Since the parties are still having disputes between them, the following directions are issued:-

i) Mr. Anuj Berry (Advocate) (Mob. No. 9811153629) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.

ii) 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 the Fourth Schedule of the Arbitration & Conciliation Act, 1996.

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

iv) 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.

v) The parties shall approach the learned Arbitrator within two weeks from today.

6. Since the petitioner has already filed a petition for grant of letters of administration, the issues raised in the letter of administration petition will be decided by the Civil Judge.

7. Mr. Kumar, learned counsel appears on instructions of the respondent No. 1 and states that he shall be filing *Vakalatnama* during the course of the day.

8. The Assets of the partnership firm will be decided by the Arbitrator, including profit of the partnership firm accrued to the shares of late Mrs. Krishna Kapoor.

9. The petition is allowed and disposed of.

JASMEET SINGH, J

MARCH 6, 2024/NG

Click here to check corrigendum, if any