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

+ **O.M.P. (T) (COMM.) 39/2024 & I.A. 9327/2024**

PARVEEN NAGPAL

..... Petitioner

Through: Mr. Yashvardhan Singh Rathore,
Adv. (M: 9873471243)

versus

RAKESH NAGPAL & ANR.

..... Respondents

Through: Mr. Satinder Singh Mathur and Mr.
Utkarsh Vats, Advs. for R-1. (M:
9811727905)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **21.05.2024**

1. This hearing has been done through hybrid mode.

I.A.9327/2024 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

O.M.P.(T)(COMM.) 39/2024

3. The present petition under Section 14 of the Arbitration and Conciliation Act, 1996 (*hereinafter*, '1996 Act') is necessitated due to the recusal of the Id. Sole Arbitrator from the matter. As per the Petitioner-Parveen Nagpal, the recusal was due to certain personal remarks made against the Id. Sole Arbitrator by Respondent No. 1-Rakesh Nagpal and his counsel.

4. In the present petition, the dispute involves three brothers, the Petitioner and Respondents No. 1 and 2- Rakesh Nagpal and Rajesh Nagpal, who were partners in M/s. Nagpal Sports. The firm carried out retail business in health and fitness equipment. The said shop from where the



business was carried out was jointly owned by the three partners as per registered Partnership Deeds dated 15th July, 2001, 8th August, 2003 and 7th April, 2006. The petition states that the said firm was verbally dissolved in 2010, with an agreement that the shop would be sold later, and until then, Respondent No. 1 would use the shop and pay 1/3rd of the market rent to the other two partners. Despite repeated demands and legal notices dated 29th May, 2013, 24th August, 2015 from the Petitioner, Respondent No. 1 failed to pay the agreed rent. The Petitioner then sought appointment of an arbitrator to resolve the disputes. Subsequently, this Court appointed the Id. Sole Arbitrator vide order dated 31st July, 2018.

5. Thereafter, it is stated that during the arbitration proceedings, the conduct of Respondent No. 1 and his counsel was hostile, culminating in derogatory remarks against the Id. Sole Arbitrator, and thus the Id. Sole Arbitrator recused on 4th May, 2022.

6. Vide order dated 29th April, 2024, this Court issued notice to the Respondents in the present petition.

7. Respondent No.2 has not appeared despite service. Mr. Satender Singh, Id. Counsel for the Respondent No.1 has appeared and submits that the Respondent No.2 has now filed a civil suit before the '**ADJ-01, Room No.15, Patiala House Courts, New Delhi District, New Delhi**' seeking the same relief, which the claimant has sought before the Arbitrator.

8. The present petition only deals with the substitution of the Id. Sole Arbitrator in view of resignation of the earlier Arbitrator. On behalf of the Respondent No.1 it is submitted that the said Respondent expresses his regret for the events that have transpired before the earlier Id. Sole Arbitrator.



9. However, in order to ensure that the matter is disposed of expeditiously, **Mr. Narottam Kaushal, Id. ADJ (retd.) (M: 9910384683)** is appointed as the Id. Sole Arbitrator. The new Arbitrator shall proceed from the stage at which the earlier Arbitrator had left the proceedings. The entire record be obtained by the Petitioner from the earlier Arbitrator and be transmitted to the DIAC for proceeding further in the matter.

10. The arbitration proceedings shall take place under the aegis of the Delhi International Arbitration Centre (*hereinafter, 'DIAC'*). The arbitration proceedings shall be conducted under the Rules of DIAC. The fee of the Id. Sole Arbitrator shall be as per the Fourth Schedule of the Act, as amended by the DIAC Rules, 2023.

11. Insofar as the suit, which has been filed before the Patiala House Court, is concerned, parties may bring to the notice of the Id. ADJ of the said Court of the orders passed by this Court and the fact that the matter is pending for adjudication before the Id. Sole Arbitrator. Appropriate orders shall be passed by the said Court in accordance with law.

12. Costs which have been imposed shall be paid by the Respondent No.1 to Id. Counsel for the Petitioner on the first date of hearing before the Arbitrator.

13. List before the DIAC on 8th July, 2024. Let a copy of the present order be emailed to Coordinator, DIAC on the email id- delhiarbitrationcentre@gmail.com.

14. The petition is disposed of in the above terms.

PRATHIBA M. SINGH, J.

MAY 21, 2024/dk/dn