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

+ **ARB.P. 542/2024**

J R CREATION ADVERTISER PVT LTDPetitioner

Through: Mr Saurabh Tewari, Ms Manjeet Singh and Mr Amit Vashisth, Advs.
(through VC)

versus

GOLD MAX TRADE N BIZ P LTD & ANR.Respondents

Through: Mr Shivinder Chopra, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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19.07.2024

1. This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of the Sole Arbitrator for adjudication of disputes between the parties.
2. The facts as per the petition are that an Agreement to Sell was executed between the petitioner and respondent No.1 on 01.09.2014. The respondent issued cheques, which on presentation were dishonoured. Thereafter, the petitioner filed its claim petition before a Sole Arbitrator and the Award dated 20.12.2021 passed by the Sole Arbitrator was set aside. Thereupon, the petitioner invoked fresh arbitration proceedings *vide* Legal Notice dated 06.02.2024.
3. As per the petitioner, the arbitration clause is clause 12 of the Agreement to Sell dated 01.09.2014 and reads as under:

“23. In case of any disputes arising out of this agreement between the parties, the same shall be referred to Arbitration to



be held in New Delhi under the provision of the Indian Arbitration and Conciliation Act 1996 or any of its subsequent amendments. The arbitration proceedings shall be settled within 2 months from the date of arbitration proceedings.”

4. There is no reply filed by the respondent despite opportunity being granted. However, Mr Chopra, learned counsel for the respondent has made oral submissions.

5. Mr Chopra, learned counsel for the respondent states that the Agreement to Sell filed with this petition is a forged and fabricated document. The same is denied by the learned counsel for the petitioner.

6. In view of the fact that there is an Agreement purportedly signed by the respondent containing an arbitration clause, this Court is required to refer the matter for adjudication to a Sole Arbitrator. The issue of whether the Agreement is a forged document will be adjudicated upon by the Sole Arbitrator as and when this plea is taken by the respondent.

7. Mr Tewari, learned counsel for the petitioner states that Mr Saurabh Nanda, Respondent No.2 has purportedly signed the Agreement to Sell as an authorized representative of Respondent No.1 - a private limited company and hence, he may be deleted from the array of parties. His statement is taken on record and the dispute between the petitioner and respondent No.1 are referred to a Sole Arbitrator. Respondent No.2 may be summoned in accordance with law, as a witness, if facts and circumstances so require.

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

i) Mr. N.P. Kaushik (Retd. ADJ) (Mob. No. 9910384663) 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/counter-claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator, including the issue of whether the agreement is a forged and fabricated document.
 - v) The parties shall approach the learned Arbitrator within two weeks from today.
9. The petition is allowed and disposed of in the aforesaid terms.

JASMEET SINGH, J

JULY 19, 2024

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[Click here to check corrigendum, if any](#)