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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ ARB. A. (COMM.) 19/2020 & I.As. 8914/2020, 10537/2020,
127/2021.
MAHESH EDIBLE AGRO OIL INDUSTRIES PVT
LTD & ORS.Petitioners

versus

KALPANA RATHORE & ORS.Respondents

+ ARB. A. (COMM.) 23/2020 & I.As. 9675-77/2020, 15184/2021.
MAHESH EDIBLE AGRO OIL INDUSTRIES PVT LTD
& ORS.Petitioners

versus

MAHESH EDIBLE OIL INDUSTRIES LIMITED
& ORS.Respondents

+ ARB. A. (COMM.) 24/2020 & I.As. 9678-81/2020.
MAHESH EDIBLE AGRO OIL INDUSTRIES PVT
LTD & ORS.Petitioners

versus

MAHESH EDIBLE OIL INDUSTRIES LIMITEDRespondent

Appearances:

Ms. Monika Arora, Mr. Subhrdeep Saha, Advocates for petitioners
[9810246300].

Mr. Rohit Sharma, Mr. Jatin Lalwani, and Mr. Nikhil Purohit, Advocates
for respondents.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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09.07.2024



1. These three appeals under Section 37 of the Arbitration and Conciliation Act, 1996 [“the Act”], are directed against a common order dated 19.09.2020 passed by a learned sole arbitrator in applications filed by the parties under Section 17 of the Act.
2. The parties are members of the same family and companies belonging to the said family.
3. I have heard Ms. Monika Arora, learned counsel for the appellants, and Mr. Rohit Sharma, learned counsel for the respondents.
4. During the course of hearing, I am informed that a learned Arbitrator was appointed in terms of an order dated 28.05.2020 passed by this Court in CS(COMM) 142/2020. However, after the impugned order dated 19.09.2020 was passed, the learned Arbitrator appointed by this Court has resigned from the proceedings in January 2023.
5. The arbitral proceedings have been at a standstill as parties were attempting to settle their disputes in mediation. The mediation proceedings have unfortunately been unsuccessful.
6. In these circumstances, and having regard to the fact that the interim arrangements which were put in place by the order dated 19.09.2020 have held the field for almost four years, I have put it to learned counsel for the parties that the arbitral proceedings ought to be taken to their logical conclusion. Ms. Arora and Mr. Sharma both submit that their clients are agreeable to reconstitution of the arbitral tribunal in these proceedings itself, so that the proceedings can continue, without prejudice to their rights and contentions on maintainability and merits of their respective claims and counter claims.



7. Having regard to the aforesaid submissions, and with the consent of learned counsel for the parties, the appeals, alongwith all pending applications, are disposed of with the following directions:

- A. The disputes between the parties are referred to arbitration of Hon'ble Mr. Justice S. Ravindra Bhat, former Judge, Supreme Court of India [Tel: 9818000160].
- B. The arbitration will be held under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi ["DIAC"] and subject to the Rules of DIAC, including as to remuneration of the learned Arbitrator.
- C. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering into reference.
- D. The learned Arbitrator is requested to take up the proceedings from the stage after completion of pleadings. The pleadings which were filed before the erstwhile learned Arbitrator, will be placed by the parties before the learned Arbitrator appointed by this Court today.
- E. I am informed that the appellants herein had made an application challenging the jurisdiction of the erstwhile learned Arbitral Tribunal to adjudicate some of the claims of the respondents. Ms. Arora states that she will take instructions as to whether the appellants wish to press that application, and if so, will request the learned Arbitrator to consider that application first.
- F. In the event either party seeks any orders under Section 17 of the Act, they may make an application to the learned Arbitrator for that purpose, which will be considered on its own merits, having regard to all the facts and circumstances of the case.



- G. Learned counsel for the parties accept that the impugned order dated 19.09.2020 was passed on applications filed by the parties under Section 17 of the Act, and does not constitute a final adjudication on any of the issues discussed herein.
- H. Learned counsel for the parties assure the Court, particularly in view of the long pendency of the disputes, that they will cooperate with the learned Arbitrator for expeditious disposal of the proceedings and no unnecessary adjournments will be sought.
- I. All rights and contentions of the parties are left open for adjudication before the learned Arbitrator.
8. It is made clear that this Court has not entered into the merits of the appeals in view of the order passed today with the consent of parties.

PRATEEK JALAN, J

JULY 9, 2024
"Bhupi"/