



2024:DHC:6122



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **ARB. A. (COMM.) 29/2024 & I.A. 29461/2024****SANDEEP KOHLI & ORS.**PetitionersThrough: Mr. Samrat Nigam, Adv. with
Mr. Amit Punj, Mr. Akash Madan, and Ms.
Arpita Rawat, Advs.

versus

VEENA SARWAL & ORS.RespondentsThrough: Ms. Shreya Sethi and Mr.
Anirudh Bhatia, Advocates.**CORAM:****HON'BLE MR. JUSTICE C. HARI SHANKAR****ORDER (ORAL)**

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12.08.2024

1. This is an appeal under Section 37 (2) of the Arbitration and Conciliation Act 1996 (the 1996 Act) directed against the interim order dated 3 March 2024 passed by the learned Arbitrator, who is presently *in seisin* of the dispute between the parties.

2. Para 14 of the impugned order reads thus:

“14 For the brief reasons stated hereinabove, the application is disposed of with the following directions:

(a) None of the parties to this arbitration shall grant a new franchise involving use of the trademark MOTI MAHAL DELUX, during pendency of the Arbitral proceedings, without prior permission of this Arbitral Tribunal.

(b) None of the parties to this arbitration will, during pendency of these Arbitral proceedings, start a new restaurant/ food establishment/ business venture, using the trademark MOTI MAHAL DELUX, either alone or in partnership/association with other(s), without prior

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permission of this Arbitral Tribunal.

(c) With effect from 06.03.2024, none of the parties to this arbitration will use or advertise or permit the use or advertisement of the trademark MOTI MAHAL DELUX on a website or on any social media platform, without prior permission of this Arbitral Tribunal.

(d) Subject to direction (c) above, the parties shall maintain status quo as on 04.03.2024, with respect to the use of the trademark MOTI MAHAL DELUX.”

3. When this matter came up for preliminary hearing on 17 May 2024, the following order was passed by this Court:

“ARB. A. (COMM.) 29/2024 & IA. 29461/2024

By way of the present appeal filed under section 37(2)(b) of the Arbitration & Conciliation Act 1996 ('A&C Act') read with section 13 of the Commercial Courts Act 2015, the appellants impugn order dated 03.03.2024 made by the learned Sole Arbitrator. The order has been made on an application filed by the respondents (claimants in the arbitral proceedings) under section 17 of the A&C Act.

2. Mr. Sanjiv Kakra, learned senior counsel appearing for the petitioners submits, that the respondents are members of a family, who have been carrying-on business, under various partnership deeds, under the name and style *inter-alia* of the trade-mark: MOTI MAHAL DELUX.

3. Learned senior counsel submits, that the grievance of the petitioners is limited to what has been directed *vide* para 14(c) of the impugned order.

4. Para 14 of the impugned order passed by the learned Arbitrator, reads as follows:

“14 For the brief reasons stated hereinabove, the application is disposed of with the following directions:

(a) None of the parties to this arbitration shall grant a new franchise involving use of the trademark MOTI MAHAL DELUX, during pendency of the Arbitral proceedings, without prior permission of this Arbitral Tribunal.

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(b) *None of the parties to this arbitration will, during pendency of these Arbitral proceedings, start a new restaurant/ food establishment/ business venture, using the trademark MOTI MAHAL DELUX, either alone or in partnership/association with other(s), without prior permission of this Arbitral Tribunal.*

(c) *With effect from 06.03.2024, none of the parties to this arbitration will use or advertise or permit the use or advertisement of the trademark MOTI MAHAL DELUX on a website or on any social media platform, without prior permission of this Arbitral Tribunal.*

(d) *Subject to direction (c) above, the parties shall maintain status quo as on 04.03.2024, with respect to the use of the trademark MOTI MAHAL DELUX.*

(emphasis supplied)

5. Learned senior counsel submits, that while in paras 14(a) and 14(b), the learned Arbitrator has restrained the parties from granting any *new franchise* or starting any *new restaurant/food-establishment/business venture* using the trademark 'MOTI MAHAL DELUX' during the pendency of the arbitral proceedings, in para 14(c) of the impugned order, it would appear, the learned Arbitrator has even restrained the parties from *using* or *advertising*, or permitting the use or advertisement of the trademark MOTI MAHAL DELUX on any website or social-media platform with effect from 06.03.2024, *on a blanket basis*, subject of-course to prior permission of the learned Arbitrator.

6. This, learned senior counsel argues, would mean that even the *existing use* or *advertisement* of the trademark MOTI MAHAL DELUX by the petitioners stands *completely restrained*, with effect from 06.03.2024.

7. It is argued that a lot of the business, including soliciting and receipt of orders etc., takes place through websites such as Zomato, Swiggy etc., as also through social-media platforms, by the existing franchises and restaurants/food-establishments/business ventures run by the petitioners. It is argued that para 14(c) of the impugned order, if it applies in its terms, would mean that the entire existing business of the petitioners would ground to a halt.

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8. It is further argued by learned senior counsel, that in fact para 14(c) of the impugned order also appears to contradict para 14(d) of the said order, inasmuch as para 14(d) directs *parties* to maintain *status-quo* with respect to use of the trademark MOTI MAHAL DELUX as on 04.03.2024, which would mean that the petitioners are permitted to continue to use that trademark for existing businesses, which is contradictory to what appears to have been directed in para 14(c) of the impugned order.

9. Upon a *prima-facie* conspectus of the matter, issue notice.

10. Ms. Shreya Sethi, learned counsel appears on behalf of respondents on advance copy; and accepts notice.

11. Ms. Sethi has made brief submissions, *inter-alia* to argue, that para 14(c) of the impugned order applies only to future franchises and new restaurants/food-establishments business ventures, and does not restrain the existing businesses being run *inter-alia* by the petitioners.

12. In the aforesaid circumstances, it is clarified that the operation of para 14(c) of order dated 03.03.2024 made by the learned Arbitrator shall be restricted *only* to future franchises and new restaurants/food establishments/business ventures that the parties may undertake and *not to* the existing businesses that the parties are running as of 06.03.2024.

13. Re-notify for further consideration on 12th August 2024.”

4. Both sides are agreeable to disposal of this appeal by making the order dated 17 May 2024 absolute, pending disposal of the arbitral proceedings and subject to further orders to be passed by the learned Arbitrator in the said proceedings.

5. The appeal accordingly stands disposed of in the aforesaid terms. This Court has not expressed any view on any other issue in controversy between the parties.

C. HARI SHANKAR, J.

AUGUST 12, 2024/dsn

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

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