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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 726/2024**

KAYBEE OVERSEAS PVT LTDPetitioner

Through: Mr. R.K. Naroola, Mr. Udayan
Mukerji, Ms. Jaya Pahwa, Ms.
Bhavika Kohli, Ms. Ria Jain, Ms.
Tanya Vats, Mr. Vivek Yadav, Mr.
Chandan Mishra, Adv.

versus

HERO ELECTRIC VEHICLES PRIVATE LIMITED & ORS.

.....Respondent

Through: Mr. Aayushman Gauba, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

23.07.2024

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1. This is a petition filed under section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties.
2. The petitioner and the respondent entered into a Registered Lease Agreement dated 11.02.2022, wherein the respondent was to pay a monthly rent of Rs. 6.25 lakhs, subject to annual increment by 4 % every month for the leased premises.
3. The arbitration clause is Clause 25 of the Lease Agreement dated 11.02.2022, which reads as under:-

“25. GOVERNING LAW/DISPUTE RESOLUTION

Governing Law and Jurisdiction: This Lease Agreement shall be governed in accordance with the laws of India. The courts at New Delhi shall have exclusive jurisdiction over any differences or disputes arising out of or remotely touching any subject



matter under this Lease Agreement.

Dispute Resolution: Any and all disputes, controversies and conflicts ("Disputes") arising out of this lease Agreement between the Parties or arising out of or relating to or in connection with this lease agreement or the performance or non-performance of the rights and obligations set forth herein or the breach, termination, invalidity or interpretation thereof shall be referred for arbitration in terms of the Arbitration and Conciliation Act, 1996 or any amendments thereof. Prior to submitting the Disputes to arbitration the Parties shall resolve to settle the Disputes through mutual negotiation and discussions. In the event that the said Disputes are not settled within thirty (30) days of the arising thereof, the same shall finally be settled and determined by arbitration by sole arbitrator in accordance with the Arbitration and Conciliation Act, 1996 or any amendment thereof. The venue and seat of arbitration shall be exclusively at New Delhi and the language used in the arbitral proceeding shall be English. The arbitral award shall be in writing and shall be final and binding on each Party and shall be enforceable only in a court of competent jurisdiction as per this Lease Agreement.

Neither Party shall be entitled to commence or maintain any action in a court of law upon any Dispute arising out of or relating to or in connection with this Lease Agreement, except for the enforcement of an arbitral award or as permitted under the Arbitration and Conciliation Act, 1996 ("Act").

Pending the submission to arbitration and thereafter, till the arbitrator renders his/her award or decision, the Parties shall, except in the event of termination of this Agreement or in the event of any interim order/award is granted under the afore stated Act, continue to perform their obligations under this Lease Agreement."



4. The registered lease deed is for plot no. measuring 1000 square meter, Udyog Vihar, Phase IV, Gurugram-122016.
5. Since there were disputes, the petitioner invoked the arbitration *vide* Legal Notice dated 27.03.2024.
6. The notice was issued in the petition and despite opportunities, no reply has been filed by the respondent.
7. The arbitration clause and execution of lease deed is admitted.
8. Since the disputes are still pending between parties, the petition is allowed and the following directions are issued:-
 - i) Ms. Prabh Sahay Kaur, Adv (Mob. No. 9810158581) 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.
 - v) The parties shall approach the learned Arbitrator within



two weeks from today.

9. The respondent is at liberty to approach the petitioner with a settlement proposal and the same shall be duly considered by the learned sole arbitrator.

JASMEET SINGH, J

JULY 23, 2024/NG

Click here to check corrigendum, if any