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

+ **ARB.P. 727/2024**

M/S MADONNA BEAUTY PARLOUR PVT. LTD. Petitioner
Through: Mr. Hitesh Rai, Mr. Pradeep Gahalot
& Mr. Harsh Srivastava, Advs. (M-
8601878743)

versus

MRS. LEENA KALRA Respondent
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **22.05.2024**

1. This hearing has been done through hybrid mode.

I.A.30171/2024 (for exemption)

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

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3. The present is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (*hereinafter*, '1996 Act') filed by the Petitioner-M/s. Madonna Beauty Parlour Pvt. Ltd. seeking appointment of a sole Arbitrator pursuant to Article 27 of the Franchise Agreement dated 1st August, 2021.

4. The case of the Petitioner is that under the said Franchise Agreement, it was agreed that the Respondent-Mrs. Leena Kalra, Proprietor of M/s. Shiv Shakti Enterprises would operate a saloon under the brand name 'MHBS' at M-64, M-Block Market, Greater Kailash Part-2, New Delhi-110048, upon payment of agreed consideration in terms of Article 7 of the Franchise Agreement. However, according to the Petitioner, the Respondent has violated various clauses of the Franchise Agreement. Thereafter, it is stated



that the Respondent terminated the said Franchise Agreement vide email communication dated 28th February, 2023. The parties are also stated to have attempted pre-litigation mediation before the South-East District Legal Services Authority. However, the Respondent did not participate in the same, and thus a non-starter report dated 25th September, 2023 was issued by the South-East District Legal Services Authority. Thereafter, the Petitioner, vide communication dated 6th February, 2024, invoked the arbitration proceedings in terms of Article 27 of the Franchise Agreement.

5. In reply to the arbitration notice, the stand of the Respondent is that a neutral Arbitrator ought to be appointed. Relevant portion of the reply to the invocation notice dated 27th February, 2024, is set out as under:

“18) After careful consideration, I am instructed to state that my client is unable to consent or agree to the appointment of Mr. Gaurav Kakar as the Sole Arbitrator in this matter. Furthermore, in the interest of ensuring a fair and impartial arbitration process, I request that an independent and neutral arbitrator be appointed to preside over this matter. I am open to discussing and mutually agreeing upon a suitable candidate who meets the criteria of impartiality and neutrality.

I understand MBPPL's intention to resolve this matter through arbitration, and I am committed to engaging in good faith to reach a fair and equitable resolution. However, I must insist on the appointment of an arbitrator who can guarantee an unbiased adjudication of the issues at hand.”

Post lunch at 2.30 pm

6. The matter was passed over in the morning. In view of the stand in the above reply, this Court requested Id. Counsel for the Petitioner to intimate



the Id. Counsel for the Respondent- Mr. Mudit Sood to appear in this matter. However, at 2.30 pm, this Court was informed that the Id. Counsel for the Respondent does not wish to appear in the matter, as no instructions were received from the Respondent.

7. In view of the stand of the Respondent in the reply to the arbitration notice dated 27th February, 2024, wherein the Respondent consented for a neutral arbitrator to be appointed, the Court appoints **Ms. Yashmeet Kaur, Advocate [M:9810788943]** as the Id. Sole Arbitrator in this matter to adjudicate the disputes between the parties.

8. The arbitration shall take place under the aegis of the Delhi International Arbitration Centre (‘DIAC’). The fee of the Arbitrator shall be paid in terms of the 4th Schedule as amended by DIAC Rules, 2023.

9. List before the DIAC on 8th July, 2024.

10. Let a copy of the present order be emailed to Secretary, DIAC on email id- delhiarbitrationcentre@gmail.com.

11. Let the present order be communicated to Id. Counsel Mr. Mudit Sood on **+91-9810247240** and also to the Respondent on the number mentioned in the memo of parties.

12. The petition is disposed of. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

MAY 22, 2024/dk/dn