



2024:DHC:5345



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **ARB.P. 795/2023****TUSHAR CHAWLA**

.....Petitioner

Through: **Ms. Stuti Aggarwal, Adv.**

versus

MR TARUN SIKKA

.....Respondent

Through: **None****CORAM:****HON'BLE MR. JUSTICE C. HARI SHANKAR****ORDER (ORAL)****18.07.2024**

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1. This matter has been passed over twice and called out a third time. There has been no appearance on behalf of the respondent. There is no response, either, to the present petition.

2. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996¹ seeking appointment of an arbitrator to arbitrate on the disputes between the parties.

3. The petition arises out Movenpick Kiosk Agreements dated 4 December 2017 and 6 June 2018 executed between the petitioner and the respondent.

4. Though there are two separate agreements with two separate arbitration clauses, Ms. Stuti Aggarwal, learned Counsel for the

¹ "the 1996 Act" hereinafter



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petitioner submits that the disputes are nearly identical and the agreements are also similar. She, therefore, submits that a notice under Section 21 of the 1996 Act was addressed to the respondent and combined arbitration petition was filed.

5. The arbitration clause in the agreements, which are identical, reads thus:

“5. Governing Law and Dispute Resolution

a) The parties hereto irrevocably submit to the exclusive jurisdiction of courts in Delhi to the exclusion of other courts in connection with any action or proceedings arising of or relation to this agreement.

b) In the event of any dispute or differences arising out of or in connection within this Agreement then in such an event the Parties shall resolve the dispute or difference by reference to Arbitration to be conducted in Delhi and conduct the proceedings in English Language in accordance with the Arbitration and Conciliation Act 1996.”

6. The petitioner issued a combined notice of arbitration under Section 21 of the 1996 Act on 26 December 2022 to the respondent, alleging breach, by the respondent, of the covenants of the agreements dated 4 December 2017 and 6 June 2018, and suggesting the name of an arbitrator to arbitrate on the dispute.

7. No reply was received to the said notice thereby provoking the petitioner to approach this Court by means of the present petition under Section 11 of the 1996 Act.

8. Despite issuance of notice and service on the respondent, there is no response to the petition. The matter was called out twice today

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and none has appeared for the respondent on any of the said occasions.

9. The assertions in the petition, therefore, have gone untraversed.

10. A *prima facie* arbitrable dispute exists. The arbitration clause is valid. The venue of the arbitration has been identified as New Delhi. The requirement of a notice under Section 21 has also been fulfilled.

11. The respondent has not responded, thereby the pre-arbitral exercise has, therefore been exhausted without the parties having arrived at a consensus regarding appointment of arbitrator.

12. Accordingly, this Court has no option but to exercise its jurisdiction under Section 11 (6) and appoint an arbitrator to arbitrate on the dispute.

13. It is stated that the claim is in the region of around ₹ 55 lakhs.

14. Accordingly, the claims of the petitioner are referred to arbitration. This Court appoints Mr. Ishkaran Singh Bhandari, Advocate (Mob: 9810170087) as the Arbitrator to arbitrate on the dispute.

15. The learned Arbitrator would be entitled to charge fees in accordance with the Fourth Schedule of the 1996 Act. The Arbitrator is directed to furnish the requisite disclosure within one week of entering on the arbitration.



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16. This petition stands allowed in the aforesaid terms.

C. HARI SHANKAR, J

JULY 18, 2024

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Click here to check corrigendum, if any

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