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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 891/2023

BHIKAJI MAINTENANCE COMBINE

..... Petitioner

Through: Mr. Mukesh Kumar, Ms. Meenakshi
Sood and Mr. Rakesh Kharb,
Advocates.

versus

RAMESH KUMARI

..... Respondent

Through: Mr. Virendra Singh, Mr. Ashutosh
Dubey, Mr. Abhishek and Mr. Amit
P. Shahi, Advocates for respondent.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

16.01.2024

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By way of the present petition under section 11(6) of the Arbitration & Conciliation Act 1996 ('A&C Act'), the petitioner seeks appointment of an arbitrator to adjudicate upon the disputes that are stated to have arisen with the respondent from Maintenance Agreement dated 23.01.2023. For completeness it may be recorded that originally a Maintenance Agreement dated 01.09.1987 was signed between the petitioner and one Mrs Anuradha Datt Munjal; which agreement however, appears to have been assigned subsequently in favour of the respondent *vide* noting dated 23.01.2023 made at the foot of the Agreement.

2. Mr. Mukesh Kumar, learned counsel for the petitioner has drawn the attention of this court to clause 11 of the Agreement, which comprises the arbitration agreement; and contemplates reference of disputes between the parties to arbitration in accordance with the A&C Act.



3. Though there is no specific provision relating to territorial jurisdiction in respect of the disputes between the parties, as has been averred in the petition, the Maintenance Agreement that forms the basis of the transaction was signed at Delhi; and therefore, in accordance with section 20 of the Code of Civil Procedure 1908, at least a part of the cause of action for the matter has arisen in Delhi.
4. As per the record, the petitioner invoked arbitration *vide* Notice dated 19.12.2022; to which no reply was sent by the respondents.
5. Notice on this petition was issued on 31.08.2023.
6. Mr. Virendra Singh, learned counsel appearing for the respondent submits that the respondent does not wish to file a reply to the petition and does not oppose the appointment of a Sole Arbitrator in the matter, except to say that before going to arbitration, the respondent wishes to attempt an amicable settlement of disputes with the petitioner through mediation.
7. Mr. Kumar is agreeable to this suggestion. Counsel however submits that to prevent any further delay in the matter, an arbitrator may be appointed in the present proceedings, while in the meantime affording to the parties reasonable opportunity to attempt an amicable settlement of their *inter-se* disputes through mediation under the aegis of the Delhi High Court Mediation & Conciliation Centre, before being sent to arbitration.
8. Upon a conspectus of the foregoing, this court is satisfied that there is a valid and subsisting arbitration agreement between the parties, with territorial jurisdiction vesting in the courts of law at New Delhi; and also that the petitioners have invoked arbitration *vide* notice dated



19.12.2022; and *ex-facie* none of the disputes sought to be raised appear to be non-arbitrable.

9. In view of what is recorded above, the course that commends itself for acceptance to this court, is to appoint a sole arbitrator to adjudicate upon the disputes between the parties; and to then hold the appointment in abeyance for 02 (two) months, affording to the parties sufficient time to attempt an amicable resolution of their *inter-se* disputes through mediation.
10. In the circumstances, the present petition is allowed; and Mr. Zubin Singh, Advocate (Cellphone No. : +91 9810034486) is appointed as the learned Sole Arbitrator to adjudicate upon the disputes between the parties.
11. The learned Arbitrator would proceed with the arbitral proceedings subject to furnishing to the parties requisite disclosures as required under section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.
12. The learned Arbitrator shall be entitled to fee in accordance with Fourth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Arbitrator.
13. Parties shall share the arbitrator's fee and arbitral costs, equally.
14. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Sole Arbitrator on their merits, in accordance with law.
15. Furthermore, in view of the request made by the parties, and to afford to them an opportunity for a mediated settlement, the order appointing



the arbitrator shall be held in abeyance for a period of 02 (two) months from today, during which time the parties are at liberty to attempt a mediated settlement of their disputes; failing which, the order of appointment shall take effect.

16. Accordingly, as requested, parties are referred to mediation under the aegis of Delhi High Court Mediation & Conciliation Centre, with a request to the learned Organizing Secretary to appoint an appropriate mediator in the matter.
17. Let the parties approach the Mediation Centre on 24th January 2024 at 02:30 p.m. for the purpose.
18. A copy of this order be sent to the learned Organizing Secretary of the Mediation Centre, for information and compliance.
19. Parties are directed to sincerely attempt to settle their *inter-se* disputes through mediation within 02 (two) months; and in the event settlement does not fructify within the said period, to approach the learned Arbitrator hereby appointed, within 10 days after the aforesaid two-month period.
20. The petition stands disposed-of in the above terms.
21. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

JANUARY 16, 2024

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